Supreme Court, U.S.
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011391 DEC 13 2001
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IN THE

Supreme Court of the United States

WILLIAM SMITH, pro. se.

Petitioner

v.

TRUSTEES FRIEDMAN AND MACFAYEN,

Respondent(s)

On Petition for Writ of Certiorari
To The COURT OF SPECIAL APPEALS MARYLAND

PETITION FOR WRIT OF CERTIORARI

William Smith c/o Mary Moore
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8 pp

QUESTIONS PRESENTED FOR REVIEW

Court of Special Appeals of Maryland did error in its discretion and authority in the protection and preservation of the Maryland Constitution, the Federal Law, and the Constitution of the United States on the issues and questions of law. (The conflict is clear, The Respondent's Exhibit A,)

Court of Special Appeals of Maryland did error in its discretion and authority of the Maryland Constitution, the Federal Law, and the Constitution of the United States on the questions and issues of facts, denied its Constitutional rights with extreme prejudice. Court of Special Appeals of Maryland did error in its discretion and authority of extreme prejudice and discrimination to the Petitioner in presenting a prima facie case of defense on any and all issues and questions raised to defeat this illegal foreclosure in a Civil Equity Court standing directly on forgery and an altered September 1, 1996 payment check and the fraud on the court committed by the Respondent, the law office of Friedman and MacFayen of Baltimore, Maryland, standing clearly on forged documents and forgery of the Petitioner's signature.

The Petitioner raises these questions/issues on the direct action of the Respondent, use of unlawful means of forged documents, forgery of the Petitioner's signature without the Petitioner's consent or knowledge, the uttering of this forgery to and before the Circuit Court and the Court of Appeals, and bad faith with intent is extreme misconduct by the Respondent to mislead and control all courts, events, orders, judgements, decisions by unconstitutional ex post facto/ex parte action which is illegal action in conflict with the Constitution, Article 1, to any and all events.

CONSTITUTIONAL CONFLICT questions that exist are:, **compelling state interest and equal protection**.

1. Due Process: Due process guarantees a party a fair hearing, a fair trial, the right to be notified timely, and the time to be heard properly before any court.

2. Legal notification that another party

is interested in a party's Constitutional rights. The notice should tell the party what the party has been accused of, where the complaint has been filed and with what court that has jurisdiction over the complaint/action, give the party necessary dated information so that the party can calculate its time of normal, reasonable, legal response in defense of its position. The notice should also tell the party the time and place of the next event.(Conflict in Respondent's Exhibit A)

a. A party that has been accused has the right to be present at any and all events.

b. The accused party has the right to face its accuser and all witnesses thereto.

c. The accused party has the right to select the mode of trial. The trial by jury is constitutional. The Court must preserve the Defendant's right of trial by jury. The Defendant can only give up its right of trial by jury under its free will of consent and it should be in writing. No Court can deny a citizen its Constitutional rights on this forgery, of Own Signature/Fed Rule 702 and 901.

4, Illegal service of summons/complaint notice. Legal service of notice is jurisdictional, is mandatory. Service by trickery, slickery or unlawful means is unconstitutional. Forgery is unconstitutional. Forging a document of certified mail is a federal offense and unconstitutional. Forgery of the other party's signature on certified mail is unconstitutional. Article P-969 340 332, certified mail, dated 9/18/97.(Fed Rule 702 and 901)

5, Illegal jurisdiction. The Court gains legal jurisdiction when legal case is filed before the Court to docket with a Clerk of the Court. The legal jurisdiction stands directly on: a) due process; b) legal notice; c) legal service of summons/notice/complaint; d) Respondent's filing of its illegal foreclosure before the Court on September 20, 1997. is unconstitutional. (on forgery, Rule 8-131.)

6. In an Equity Court, any legal action taken to foreclose or terminate a Mortgage Deed of Trust must be done on a legal dispute of payment, legal default which must

stand on Maryland Law. Rule 14-201 through 14-206 and 14-305.Review stenographic tapes for constitutional decision

7. See/ Illegal foreclosure stands directly on constitutional law due process, constitutional law search and seizure. A party has the right to challenge illegal foreclosure from the illegal sale back to the Mortgage Deed of Trust, thereby encompassing any and all fraud, mistakes and irregularities, Rule 2-535 – Revisory Power. raise(B) any time.

8. Illegal use of statements under oath and oaths of affidavits under the penalty of perjury with intent. For any party to petition the Court to render a decision that would resolve any and all issues of law and facts and award relief is subject to the rule of summary judgement. The summary judgement rule requires an affidavit of personal knowledge under the penalty of perjury. Rule 2-501 – Summary Judgement. Can raise questions , any time.

9. Illegal use of forged documents, fabricated evidence uttered before the Court is unconstitutional. Federal Rule § 22-3841, Forgery. To avoid a jury trial.

10. The forgery of the Petitioner's signature to fraudulently give the Court illegal jurisdiction over the action is unconstitutional. Rule 14-204 Jurisdictional Matter.

11. Placing false statements under oath, false affidavits under oath on which the Court and others would depend on its legality in order to place their sworn affidavits before the Court is a subornation of perjury. Rule § 22-2512, Subornation of Perjury,Fraud on the court is unconstitutional

12. Article 1, ex post facto/order/judgement/ decision of law is unconstitutional and all decisions made by Maryland Courts on which this action stands are made on ex parte Maryland law/orders/judgements in conflict with the Constitution.illegal order upon ex parte application prohibited.

13. The Petitioner's right to legal counsel.

a. The Petitioner's right to absolutely be able to defend its position.(ON The Respondent's Exhibit A,)

b. The Petitioner's absolute right to present its position with or without counsel. Constitutional

14. The right of the Petitioner to petition the Court to review any and all facts and evidence before the Court renders its decision, ON The Respondent's Exhibit A,

15. The right of the Petitioner to place before the Court on facts and evidence of fair comment.

16. The right of equal protection under the law from any and all states. Constitutional right. (ON Exhibit A,)

17. The right of the Petitioner to receive a non-prejudicial, non-discriminatory decision on any and all events before the Court.(ON The Respondent's Exhibit A,)

18. Misconduct/bad faith is under the jurisdiction of the Court of Appeals. The Respondent's fraud, forged document, forgery of signatures, uttering of these signatures before the Courts, perjury, subornation of perjury, obstruction of justice, concealment are moral turpitude to avoid a jury trial and the Constitution. is unconstitutional.

19. The issues of conflict/questions of the Respondent's and Court of Maryland's action with the Constitution of the United States is clear. The Respondent set out to keep the Circuit Court of Maryland and the Petitioner apart until the Court rendered judgement on each event and the judgement would become final and enrolled by the use of fraudulent concealment, which constitutes fraud on the Court. Rule 2-535 – Revisory Power P, b, raise any time.

20. Constitutional fraud is extrinsic fraud Designed by the Respondent to compromise the integrity of due process to keep the opposing party from placing its whole case before the Maryland Court, to effect a fair/hearing trial of material facts and law, Article 1, ex parte/ex post facto/order/judgement/decision is unconstitutional.

CONSTITUTIONAL CONFLICT questions that exist are: **compelling state interest and equal protection.** Due process: Article 1, Article 3, Article 4, Article 6, Article 23, Article 24, Amendment 1, Amendment 4, Amendment 6, Amendment 7, Amendment 9, Amendment 10, Amendment 14, and the BILL OF RIGHTS. conflict, is substantively illegal.

LIST OF PARTIES

[✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgement is the subject of this petition is as follows:

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IN THE SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari be issued to review the judgement below

OPINIONS BELOW

[ ] For cases from **state courts:** opinion of the Special Court of Appeals/Maryland

The opinion of the highest state court to review merits appears at Appendix A to the petition and is Page 1-10

[ ] reported at _____; or

[ ] has been designated for publication but is not yet reported; or

[✓] is unpublished. Maryland Rule 8-114, Unreported Opinion.

JURISDICATION

[✓] For cases from **state courts:** Maryland, Court of Appeals

[✓] A timely petition for rehearing was therefore denied on

the following date: September 14, 2001 and a copy of the order denying rehearing appears at Appendix D.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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STATEMENT OF CASE
CONSTITUTIONAL QUESTIONS, ISSUES IN CONFLICT

The Petitioner raised the legal questions and issues of the Constitutional protection and preservation of the people's/Petitioner's Constitutional rights as opposed to the integrity of the illegal process undertaken by the judicial system of the Circuit Court through the Court of Appeals of the state of Maryland on this illegal equity foreclosure process. The Petitioner's position is clear. This is reversible. The Petitioner has been denied its Constitutional rights with extreme prejudice from the Court of Appeals. No Court can deny a citizen its Constitutional rights on the forgery of any and all jurisdictional matters. The Court of Appeals is in Constitutional conflict, is substantively illegal.

The Circuit Court, in abusing its authority and discretion, has denied the Petitioner its Constitutional rights with extreme prejudice, process is substantively illegal.

The Court ex parte hearing judgement/summary judgement is not a substitute for Trial by Jury. The Court's unconstitutional process is substantively illegal. Summary judgement, illegal – Rule 2-501 – Summary Judgement is well documented, and the Respondent's affidavit is insufficient to sustain the motions of summary judgement that the Court has acted on without a trial of facts by law. The interpretation of the federal rule persuasive authority which is Constitutional. For the same reason, the Respondent errors by the Maryland Court of Appeals is in conflict with the Maryland Constitution, the Federal Law, the Maryland Case Law, and with this Court cases, allowing the Respondent illegal process as Constitutional law. The Court of Appeals' ruling on this illegal action is in conflict with the Constitution and imposes a greater liability on the Petitioner than the Federal Law or the Constitution. Rule 2-511 – Trial by Jury. Due Process. **compelling state** **equal protection**.

Constitutional Authority, Article 24, Due Process: Due process is Constitutional and clearly states that no man

ought to be taken or imprisoned or disseized of his free holdings, liberties or privileges or outlawed or exiled or in any manner destroyed (altered check, forgery signature, perjury,) or deprived of his life, liberty or property by the judgement of his peers or by the laws of the land (1977, ch, 681 ratified, November 7, 1978). (ON The Respondent's Exhibit A,)

On all the questions of facts and law that the Petitioner placed before the Court of Appeals in Maryland, the Court would not, did not respond to any of the Petitioner's requests and Constitutional rights. The Maryland Law is not in conflict with the Federal Law or the Constitution, but the Court of Appeals' decision is clearly in conflict with Maryland Rule, Maryland Law, the Constitution, Federal Law, and the Constitution of the United States. Rule 2-121 – Process Service; Rule 1-351 – Orders Ex Parte prohibited.on the forgery, ex parte decision is unconstitutional.

The Maryland rules for a legal foreclosure, as per this case, are Rules 14-201 through 14-206, and 14-305, respectively, of September 3, 1996, illegal default confirm.

1, The parties of Bank America and William Smith entered into a contract as per a Mortgage Deed of Trust, standing clearly on Maryland Law, as per rule (Appendix E).

2. The contract date of the Mortgage Deed of Trust is certified the 17th day of March, 1986. The point of interest on the contract, the Mortgage Deed of Trust, is the certified signature of William Smith, as per Maryland Rule 5-901. The Petitioner has the right to identify his or her signature of September 1, 1996, altered check #3890.

3. The law requires for a legal foreclosure, there must be a legal default. The conflict of this decision is that the Court of Appeals will and did accept the altered check of September 1, 1996, check number 3890, as a default confirm. The Petitioner's position is clear. Bank America's letter of October 10, 1996 clearly is in conflict with Maryland Law, clearly is in conflict with the conditions of the September 1, 1996 check number 3890, sent to Bank

America on September 1, 1996 by the Petitioner. The alteration takes place while this check is in the possession of Bank America. Someone added a "3" in front of the "1" making it September 31, 1996. This automatically makes this check in default. We all know that there are only 30 days in September, and the fact that Bank America is now sending this check back to the Petitioner on October 10, 1996, it will be clearly established that Bank America had this check in its possession as of September 3, 1996, which can clearly be calculated to show that Bank America held this check in its possession, with intent, for 37 days. This action by Bank America is clearly in conflict with the Constitutional due process (Appendix F).

The Bank America letter of September 24, 1996 to the Petitioner clearly states that Bank America did not have this September 1, 1996 payment in its possession at that time (Appendix G).

The Bank America letter of January 15, 1997 to the Petitioner on which Bank America had performed a partial audit as requested by the Petitioner to try and resolve the issue of the payment of September 1, 1996. This document is substantively admissible prima facie evidence that the dispute of a payment of material facts does exist. Under date due of September 1, 1996, under date received, the September 1, 1996 check was received by Bank America on September 3, 1996 - this is proof positive that this check was in Bank America's possession as of September 3, 1996 and clearly shows a conflict in Bank America's October 10, 1996 letter and the September 24, 1996 letter, both showing that Bank America had **not** received the payment for September 1, 1996 timely. This constitutes an illegal default. This constitutes a jury question and clearly shows a conflict in the Court's decision for judgement versus the Constitutional rights of the Petitioner of trial by jury under the Constitutional 6th Amendment of the Bill of Rights. The Maryland Rule 1-351 order upon ex parte application prohibited, unconstitutional Punish Without Due Process.

When the Petitioner brought this information to the attention of Bank America, instead of trying to resolve the issue, Bank America would now try to cover-up the altered check of September 1, 1996 payment by moving up the November 1996 payment to cover-up the altered check, Rule 13-303- Practice Generally Prohibited. (Appendix H, illegal default BILL OF RIGHTS, **compelling equal protection.**

1. Proof of the conflict is clearly demonstrated in Bank America's letter of November 25, 1996 to William Smith, the Petitioner, stating clearly that "we show your loan due for 9/1/96 payment and the amount is now due" (Appendix I).

2. And the conflict is clearly shown in the Bank America letter of February 21, 1997 to the Petitioner, showing the new default date of 11/1/96. Simply stated, Bank America has now accepted all of the payments that it was sending back and placing them on the record to cover-up the altered check of September 1, 1996. Now the default has moved to 11/1/96 (Appendix J – illegal default confirms illegal foreclosure), unconstitutional, is substantively illegal.

The document, Bank America's letter of August 6, 1997, is proof that Bank America, with knowledge of the conflict, did send this illegal foreclosure to the law office of Friedman and MacFayen, P.A., Attention: Alan E. Friedman, 210 E. Redwood, Baltimore, Maryland 21202, to be processed in the Court of Maryland as a legal default, for legal foreclosure. The Petitioner raised the legal questions Rule 2-511 Trial by Jury (Appendix K) Article 24, Due Process.

The document of the law office of Friedman and MacFayen, of July 11, 1997, is clear that Friedman and MacFayen recognized that there was a conflict between the action of their client and the Petitioner, and the Maryland Constitution and the Constitution of the United States. This letter clearly notified the Petitioner to respond to Friedman and MacFayen timely within 30 days with any and all disputes of this illegal process, forgery, illegal default, altered check

3890 for due process or to trial by jury. CONSTITUTIONAL

The document of William Smith dated August 5, 1997 to the law office of Friedman and MacFayen is clear that the Petitioner is disputing the illegal foreclosure timely. The accused party has the right to select the mode of trial (Rule 2-511, Trial by Jury – Appendix L). Any and all documents with payments attached were sent to the law office of Friedman and MacFayen by certified and overnight express mail. The Petitioner's exhibits E-23 and E-24 from the brief confirms (Appendix M).

The Petitioner's letter to the law office of Friedman and MacFayen of September 3, 1997 (Appendix N) clearly shows that there is a conflict now developing between the law office of Friedman and MacFayen and the Petitioner, as per the contents/action of its letter of July 11, 1997, promising to give to the Petitioner the necessary information from its file on the Petitioner's letter of dispute of August 5, 1997. It is crystal clear that by September 3, 1997, the law office of Friedman and MacFayen did **not** fulfill its promise of its letter dated July 11, 1997. In this letter of September 3, 1997, the Petitioner is making crystal clear to the law office of Friedman and MacFayen that the Petitioner will demand a trial by jury as per Maryland Rule 2-511, Trial by Jury, Rights Preserved and Constitutional Law.

The Petitioner's letter of September 15, 1997 (Appendix O) to the law office of Friedman and MacFayen, the Respondent, is sent with payment and again requesting the information necessary to defend against this illegal foreclosure. It is crystal clear that the law office of Friedman and MacFayen had privy knowledge to the fact this foreclosure was indeed illegal as per Maryland Rule of Law. Rules 14-201 through 14-206 and 14-305, respectively.

The Maryland Rules, Laws and Constitution, Federal Law, and the Constitution of the United States state clearly that there can be no action taken against any party until that party has been properly notified. Proper notification is a jury question. Proper notification ismandatory. Proper

notification is constitutional (Formal Rule W74 – Notice Contents Only), process is substantively illegal.

The proof of conflict of the Maryland Court of Appeals' decision rests clearly on the document of Friedman and MacFayen to William Smith, the Petitioner, listed as Exhibit A for September 17, 1997. This document is self-explanatory (Contents Only – Appendix P). This document can never rise to the level of proper notice of foreclosure or proper notice of the termination of the Mortgage Deed of Trust between Bank America, the Respondent's client, and the Petitioner. This document is clearly a response to the Petitioner's September 15, 1997 request with payment. The Petitioner's proof of conflict to the Court of Appeals, under the Maryland Rules, of a legal foreclosure Rule 14-201 through 14-204 is not in conflict with the Constitution. It requires a Constitutional notice of foreclosure and/or termination of the Mortgage Deed of Trust so that the Petitioner can defend against the illegal process (Article 24, Due Process – Appendix Q). Under the Maryland rule, contents of this notice must strictly comply with the former Rule W74, Case Fletcher Company vs. Grice, 245 Md. 248, 226 a. 2d. 153 (1967). The Court of Appeals had to know that this document could never rise to the level of proper notification, of any intent of foreclosure or the termination of the Mortgage Deed of Trust on a legal foreclosure. It clearly does not state the filing of the case with the court, the Circuit Court of Maryland. It clearly does **not** show any way of calculating the time necessary for the Petitioner to respond in any court to this notification. It is clearly a response to the Petitioner's September 15, 1997 letter. The proof is reflected in the U. S. Post Office money order number, check number, that is shown on the September 15, 1997 letter from the Petitioner and the September 17, 1997 response from the Respondent. This letter is clearly on file in the Circuit Court and Court of Appeals as legal notification from the Respondent to the Petitioner of a legal foreclosure that would be filed with the Circuit Court on September 20,

1997. This letter alone should have sent this case to trial by jury. Notification is a jury question. This document is insufficient (as a Constitutional legal notification that is mandatory)(Appendix Q). with extreme prejudice.

The second part of the proof that the Circuit Court's and the Court of Appeals of Maryland's decision is in conflict with the Maryland Constitution, the Federal Law, and the Constitution of the United States. The bottom part of exhibit A is proof positive of that conflict. Rule 2-121 Process Served in Personam is in conflict with the document placed before the Circuit Court and the Court of Appeals by the Respondent. The Respondent's document is identified as a certified mail return receipt, article number P-969 340 332. The certified mail document return receipt is dated 9/18/97, has a 9/18/97 stamp of the post office of Fort Washington, Maryland. As per Maryland Rule 2-121 Process Served, it is mandatory that this certified mail is served with requesting a restricted delivery. Box number 2 is in conflict with the rule. Failure to request restricted delivery, attempted service by certified mail which does not request restricted delivery is insufficient, Quann vs Whitegate-Edgewarter. 112 frd. 649, d. Md. 1986. Box 5 received by printed name is a forgery. Respondent is well aware of who forged the name of William Smith printed in this box. Forgery, under Federal Law§22-3841, Forgery. Box 6 signature, addressee or agent, the handwritten name of William Smith is a forgery as per Federal Rule§22-3841, Forgery. The Petitioner stands on its right of the Maryland Rule 5-901 to identify and authenticate its handwriting, to identify and authenticate whether it has seen and consented to any and all documents (a jury question)., Article 24, Due Process: with extreme prejudice.

The Petitioner states clearly for the record that the signature that appears on this certified document P-969 340 332 is **not** the signature of the Petitioner, William Smith, placed on this document by this Petitioner. This document is identified in the brief that appeared before the Circuit Court and the Court of Appeals as(E-30.) This document appears in

the Respondent's brief as number (44.) This document was placed before the court by the Respondent with full knowledge that it was a forgery. This document constitutes fraud on the court. This document placed before the court with the Respondent having full privy, token knowledge, of its contents and its existence. This action by the Respondent is clearly in conflict with Constitutional law. This document constitutes fraud on the U.S. postal service. This document did not pass through the U.S. postal service. The postal service is well aware and its preliminary investigation is clear that this document did **not** pass through its system. It is also aware how the Respondent managed to pull this fraud off. The U.S. Postal Service is a Constitutional act of Congress. The action of this certified mail is in conflict with that Constitutional act. Article 1, Section 8, the power granted Congress in Section 7, for Congress to set up the U.S. postal service. This forged document and forgery of signature is in conflict with Article 1 of the Constitution. This certified mail which controls the Judicial Branch authority of jurisdiction, which the court may decide whether the law has been broken, is also is conflict with Article 3 of the Constitution. Due process, Article 24, is in conflict. The 14th Amendment, Discrimination, is in conflict. Amendment 4, Search and Seizure, is in conflict. Amendment 1, the freedom of opinion, is in conflict (a jury question). **and equal protection**.

Jurisdictional facts and jurisdictional matters raise the Constitutional question of the conflict of the Respondent's action, the conflict of the Circuit Court refusing to allow the Petitioner to raise the question of jurisdiction, the conflict of the Maryland Court of Appeals' refusal to address the question of jurisdiction in its appeal process. The Petitioner's position is that this is prima facie evidence (illegal use of forged documents), is substantively illegal **compelling**.

Jurisdictional facts: Those matters of facts, which must exist before the court can properly take jurisdiction of the particular case as that the Defendant has been properly served with process. The jurisdictional facts are presented to

the court in two parts.

1. Notice is inconsistent with Maryland Law, Maryland Constitution, and the Constitution of the United States. Notice is mandatory. Notice is Constitutional. Notice is state interest compelling prima facie evidence. The Respondent's notice, exhibit A, September 17, 1997, is in conflict to avoid a jury trial and the Constitution. process is substantively illegal.

2. The jurisdictional fact number 2 that is before the court is service. Proper service summons is mandatory. Proper service summons is Constitutional. Proper service summons is compelling state interest and equal protection, and is prima facie evidence standing clearly on Maryland Rule 2-121 Process Served (a) (3). Requested Restricted Delivery is in conflict with Maryland Rules, Laws, Constitution, Federal Laws, and the Constitution of the United States. Article 24. Due Process - the right to be properly notified and the right to be properly heard is in direct conflict. is substantively illegal.

This jurisdictional matter of service is compelling state interest, one which the states are forced to oblige, to protect and give equal protection to all parties. Coleman vs Coleman, 32 Ohio St. 2d. 155, 291 N.E. 2d. 530, 534. Rule 8-131, Scope of Review. **compelling state equal protection.**

The definition for certified mail under Maryland Rule is consistent with the definition for certified mail under the Federal Rule and the Constitution. Conflict that exists stems from the unlawful action taken by the Respondent on forged certified mail receipt, forgery of the printed name of the Petitioner on the return receipt, forgery of the signature name of the Petitioner on the return certified receipt. Article P-969 340 332 of the date of 9/18/97 is forgery under the Rule§22-3841 Forgery (1) (2) (3). This forged document is in conflict with the Maryland Rule 1-202 Definition (d) Certified Mail. Under this rule, certified mail means mail deposited with the U.S. postal service, with postage paid and return receipt requested. This certified mail receipt

constitutes fraud on the U.S. postal service. It carries a U.S. postal service Fort Washington, Maryland 20744 stamp. The conflict is that this certified mail receipt did not as per rule become deposited with the U.S. postal service. It was withdrawn and then became a forged document with forged signature to influence the Circuit Court and give the Circuit Court up through the Court of Appeals illegal jurisdiction over the case of Friedman and MacFayen vs. William Smith, Case number CAE 97-16794 in the Circuit Court of Maryland. This is an illegal process. This action by the Respondent deprives the Defendant, the Petitioner, of its Constitutional rights, of timely notification, of timely service and its right to be present at any and all events, its right to be properly heard in the Circuit Court of Maryland timely, its right to request trial by jury, its right to request and be represented by counsel. This illegal action by the Respondent is non-jurisdictional. Simply stated, the Circuit Court of Maryland up through the Court of Appeals never, never, never had legal jurisdiction over this case. This action has been expressed in affidavit of personal knowledge many times before the Circuit Court up through the Court of Appeals, all to no avail, to avoid a jury trial (Appendix D-R).

Jurisdictional matters are always before any court. Jurisdictional matters can be raised at any time before any court. This is Constitutional. Under this improper Equity Court illegal foreclosure, the Respondent did in fact, with full knowledge of the forged document of certified mail and the forgery of the signature of the same certified mail did, under Rule§22-3841 Forgery (2), place this illegal forged document in the Circuit Court of Maryland to control the Court's orders, judgements, jurisdiction to date.

The Respondent did file this illegal foreclosure on the strength of the forged documents on September 20, 1997, with full knowledge that it was illegal and unlawful, and in direct conflict with Maryland Rules, Laws and Constitution, the Federal Law and the Constitution of the United States. The Maryland Rule 14-204(c), Jurisdiction, attaches upon

commencement of action. "The jurisdiction of the court over property, subject to lear, shall attach upon the commencement of an action filed presumed to Rule 14-204 with or without the bond described in Rule 14-206 (a)." This rule is stated under the presumption of a legally filed foreclosure by the Respondent. **compelling state interest**

Under the authority of the Constitution of Maryland and the Constitution of the United States, the Court of Appeals of Maryland denied the Petitioner his Constitutional rights as per Article 1, Section 10 – forgery, improper, insufficient summary judgement, is **not** a substitute for trial.

1. These are powers denied to the State of Maryland.

a. No state can pass/use a bill or create a law to punish a person/petitioner without due process of a fair trial/hearing. Due process is the right of every citizen of the United States, the right to be properly notified that the other party is interested in the Petitioner's Constitutional rights and the right to be properly heard by the Court authorities which have legal jurisdiction over the civil action. Maryland process is substantively unconstitutional.

b. Due process in a civil action is just as constitutional as due process in a criminal action. There is no distinction, ex parte judgement is not a substitute for Trial

c. No state/court can pass/order orders or judgement on any action as an ex post facto of law. Court rests on this extrinsic fraud, forgery of signatures, uttering.

2. The Maryland Rule 1-351 order upon ex parte application prohibited, with the exception of a signed affidavit of personal knowledge by the Respondent placed before the Circuit Court that the Respondent, which is the moving party, has certified in writing that all parties, who would be affected, have been given proper notice of the time and place of the presentation of this application to the court.

The Respondent was well aware that its bad faith action of fraud, mistakes and irregularities was constitutionally unlawful. The Respondent was well aware

that all Courts would depend directly on its bad faith action as per its title of Counsel, Officer of the Court/ position as Trustee of the action, and its statements under oath of perjury on which its affidavit and the affidavits of others to support the Respondent's position would stand to assure the Court that all legal constitutional actions to any and all events would be lawfully constitutional. The Respondent deliberately deceived the Court, committed fraud on the Court, Compelling State Interest to protect, offense gains, illegal jurisdiction, process is substantively illegal.

On September 20, 1997, the Respondent knew that the Constitution of United States under Article 1, ex post facto, orders, judgements, law. The Respondent also knew and understood that under Maryland Rule 1-351, order upon ex parte application prohibited. The respondent also knew and understood that in order for the Maryland Rule to coincide and not be in conflict with the Constitution and the Federal Rule, the Maryland Rule listed exceptions under the precise conditions. The Rule states clearly "no court shall sign and order or grant any relief in an action upon ex parte application unless (a) it is implied of these rules or other laws, (b) the moving party, which is the respondent, has certified in writing that all parties who will be affected by the court ruling have been given notice of the time and place of presentation of the application to the court or that specified effects commensurate with the circumstances have been made to give notice (amended November 23, 1988, effective January 1, 1989, June 5, 1996, effective January 1, 1997)". It is clear the action of the Respondent and the action thereafter by the courts was in direct conflict with the Maryland Constitution, Federal Law, and the Constitution of the United States.

Under the authority of the Constitution, Article 24 Due Process, the Respondent did set out to destroy, and deprive the Petitioner of his life, liberty and property, by judgements to be rendered by the Circuit Court of Maryland up to and through the Court of Appeals in direct conflict with judgements of the Petitioner's peers by the law of the land,

the Constitution. Due process (1997, Ch. 681, ratified Nov. 7, 1978), on forgery WHICH is illegal/ unconstitutional.

Unclean hand doctrine. Under this doctrine, a Court of Equity may deny relief to a party whose conduct has been inequitable, unfair, and deceitful by doctoring applies only when the reprehensible conduct complained of pertains to the controversy at issue. Case authority: Goben Z. Darry, 234 Kan. 721, 676 p. 2d. 90, 97.

The Respondent did place on September 20, 1997 forged evidence, forged signature of the Petitioner, to control the decisions of the court by placing before the court under Rule 14-101 Evidence Under Oath, Affirmation in Lieu of Oath, Perjury, to have the court enter all judgement that was in conflict with the Constitution of Maryland, the Constitution of the United States, Article 1 ex poste facto of the Circuit Court of Maryland orders, judgements on this illegal foreclosure. The Petitioner was required to place the facts before the Court under oath, for /ex parte action.

1. All evidence shall be given under oath according to the form of common law. The Respondent's under oath statement is perjury and in conflict with the Constitution.

2. The Maryland ex parte judgement required an under oath statement to support or verify by an oath the affirmation is equivalent to an oath and any conflict thereafter is perjury. **state interest and equal protection**.

3. Rule 14-101, Evidence Under Oath, clearly states whosoever swears, affirms, declares, or gives testimony in any form, where an oath is authorized by law, is lawfully sworn, and is guilty of perjury in a case where he would be guilty of that crime if sworn according to the form of common law. (Dec. 23, 1963, 77 Stat. 517, Pub. L. 88-241, 1, 1973 ed.) It is clear that the Respondent's ex parte application is prohibited by law, by Maryland Constitution, and the Constitution of the United States. It is in direct conflict. The Respondent is guilty of perjury. The question

facing the Maryland Court of Appeals was how can the Respondent be guilty of perjury and receive the property of the Petitioner and not be in conflict with the Constitution of the United States? "Forgery" (Appellate Jurisdictional).

Under the authority of Rule 14-301, the parties and other interested persons are generally competent to testify in any civil action or proceeding by reason of he is being a party thereto or is interested in the results thereof. The Petitioner did place before the Circuit Court and the Court of Appeals many times, under oath of personal knowledge, the affidavit to the facts stated herein to no avail. The Respondent would not place an affidavit before the court of personal knowledge. Rule 1-304 – Form of Affidavit.

Under the authority of Rule§22-3821, Fraud. The action to date by the Respondent is fraud (a) (b) (c). The Respondent's actions and the Constitution are in direct conflict. The evidence of elements of false pretense is clear. False pretense or representation must relate to existence of past facts. False representation may be oral or written or may be implied from conduct. The presentation of this statement of oath before the Circuit Court is implied representation of its validation/ validity of fraud. This action by the Respondent,

The Respondent's actions are clearly in conflict with the Constitution Due Process, Article 24. Under the authority of Rule § 2 2-3822, Penalty of Fraud.

1. Fraud is in the first degree.

2. Fraud is in the second degree, which stands clearly on the authority of Rule§22-3841, Forgery (1 a b c (2 uttered by authenticating and transferring, transmitting and presenting, displaying these documents in the Circuit Court of Maryland and the Court of Appeals. I am certifying them as genuine, listed as Exhibit A by the Respondent,

3. As written instruments.

   a. Documents for title.

   b. With a legal post office stamp used for Illegal purposes, that is being used as a domestic, government entity. Constitutional, **compelling state equal protection**.

c As a certification of interest in any tangible or intangible property and any certificate of receipt for or warranted or right to subscribe to or purchase any of the foregoing items. The property of 11604 Kimberly Wood Lane, Fort Washington, Maryland. (illegal foreclosure)

d. Commercial papers or documents contained in writing or printed matter or the equivalence of.

e. Any other instruments commonly known as a security or to so defined by an Act of Congress. Under the authority of the Constitution, Article 1, Congress has the power in Sections 7 and 8 to establish the post office and its authority. The action of the Respondent is in direct conflict with this authority by the use of forged, forgery of certified mail. Article P-969 340 332, certified mail, dated 9/18/97, with a defraud seal of September 18, 1997 of the post office of Fort Washington, Maryland 20744. This unlawful act is in direct conflict with the Rule§22-2513.False Swearing.(a) (b). A person commits the offense of false swearing if, under oath or affirmation, he or she willfully makes a false statement in writing that is in fact material and the statement is one that is required by law to be sworn or affirmed before a notary public or other person authorized to administer an oath. The Respondent's sworn statement and affidavit are in conflict with this rule, Rule§22-2514, False Statements. A person commits the offense of making false statements if the person willfully makes a false statement that is in fact material, in writing, directly or indirectly, to any instrumentality of the court under the circumstances in which the statement could reasonably be expected to be relied upon as truth, and the false statement is punishable by law. The statements on the jurisdictional matters on which all orders, rulings, judgements, decisions of this case lie are generated from the false statements made by the Respondent to the Court of Maryland. §.22-2512, Subornation of Perjury. A person commits the offense of subornation of perjury if that person willfully procures others to commit perjury. When the

Respondent, with first hand knowledge knowing that the evidence it was placing before the Circuit Court and the Court of Appeals were fraud, forged, perjury, and it procured others, under oath, to confirm the Respondent's evidence based on the Respondent's title and position, the Respondent's actions are in conflict with the subornation of perjury and the Constitutionality of the process. The record will show that the Petitioner did exercise due diligence under the statutes timely, in the Petitioner's original encounter/notice to appear in the Circuit Court of Maryland. The Federal Court is on record, clearly stating that an obstruction of justice involves moral turpitude, that forgery and uttering involves moral turpitude.

Fraudulent concealment requires an act tending to conceal course of action. The Respondents, in filing this fraudulent information before the Court on September 20, 1997 to give the Court illegal jurisdiction and to control the judicial process, had to file a civil non-domestic case information form for Case CAE-97-16794, which was mandatory.

1. The evidence before the Court of Appeals in the Petitioner's brief was E 32 and 33. The Plaintiff responded simply that this sheet must be completed and attached to the Respondent's original complaint. A copy must be included for each defendant to be served. If this information sheet is not completed, no action on this case will be commenced and the complaint may be subject to dismissal (Appendix R)

a. The Petitioner/Defendant must complete the bottom portion of page two and file with the Petitioner's answer. Failure of the Petitioner to file this form will be deemed to be an agreement with the Respondent/Plaintiff's information. notification is mandatory.

b. The information on this form is typed in by the Respondent's office. In the space provided for the Defendant/Petitioner, someone hand-wrote the name of "Smith" to imply to the Court that Smith, the

Petitioner/Defendant, had seen, read and consented to the information on this form to then give the Court the green light as stated in the directions above, that the Petitioner/Defendant was in agreement with the Plaintiff's/Respondent's information. This documented evidence is in conflict with the Constitutionality of the process. The Respondent knew from the September 3, 1997 letter from the Petitioner that the Petitioner would ask for a trial by jury under Rule 2-511, Trial by Jury, A - Rights Preserved. By not communicating this sheet timely with the Petitioner, the Respondent took away the Petitioner's/Defendant's right of trial by jury. Under the Constitutional authority, Article 3, number 3 - Trial by Jury is in direct conflict with the action taken by the Respondent and the Court of Maryland. This document also states clearly to the Court of Maryland that there is no dispute of any material facts by the Defendant/ Petitioner when all the evidence in the Respondent's possession from July 11, 1997 to the date of filing this illegal foreclosure September 20, 1997 is in conflict. Page two of this document continues the fraud, forgery, utterance placed before the Court by the Plaintiff/Respondent. Once again, in the space for the Defendant/Petitioner, someone has hand-written the name of "Smith" to indicate compliance. This document is signed as a Plaintiff/Petitioner certification stating "I hereby certify that I have accurately provided the above information to the best of my ability" and it is signatured by Alan E. Friedman, Esquire of the law office of Friedman and MacFayen, the Plaintiff/Respondent. This document is clearly in conflict with the Constitutionality of the process. This document is clearly placed before the Circuit Court up to and including the Court of Appeals to control any and all events, orders, rulings, judgements, decisions made by said Court, and as of today, has proven to be effective. (Appendix N) — Ex Parte)

This clearly provided the basis for Maryland Rule 1-351, Orders Upon Ex Parte Applications to all of the illegal events, which is in direct conflict with the Constitution of the

United States, Article 1, Ex Post Facto Orders, Judgements, Laws are prohibited. These documents, evidence are admissible facts of genuine material facts that the Plaintiff/Respondent clearly were taking unlawful, unconstitutional actions to fraudulently conceal the course of constitutional action necessary to resolve this case. This is a positive act intended to conceal the course of action for the Respondent. Under Rule 13-303, Practice Generally Prohibited, this action by the Respondent is in conflict with the Constitution of the United States and is prohibited by law for the Respondent/Court to place the property of the Petitioner that was confiscated under this provision from being offered for sale, without a trial of facts by law, by jury.

In the past, there are many case actions to confirm that the Maryland Court of Appeals has been in sync on its decisions with the Constitutionality of the process, concerning personal service procured by fraud will be set aside on motion. Personal service of process, if procured by fraud, trickery or artificial, is **not** sufficient to give a Court jurisdiction over the person thus served and service will be set aside upon proper application. Relief is in accordance to such case, **not** because by reason of the fraud, the Court did **not** get jurisdiction of the person, of the Defendant by the service, but on the grounds that the Court will **not** exercise its jurisdiction in favor of one who obtains service of his summons, service, notice by unlawful means. In re Karol, 11 Md. app. 400, 274 a. 2d. 407 (1971). The conflict is clear in this case of the Petitioner that is now before the Supreme Court that the Court of Maryland is clearly stating that forged documents, forgery of the Petitioner's signature, perjury, subornation of perjury, are legal events. The Petitioner takes the position that, under the Constitution, no one can commit these kinds of offenses that are clearly in conflict with the Constitution and gain due process over the Defendant's property up to and including an illegal sale to the Veteran's Administration (Appendix P, Appendix Q, Appendix R), process is substantively unconstitutional.

The Respondent was well aware that if and when the Court ever became aware of the fraud, mistakes and irregularities of all events, the court, being aware that the Petitioner was without counsel, would **not** have the will under the record pressure to respect, protect and preserve the Constitution as per Article 6, Article 4, and Article 3. The Court, under Article 3, Judicial Power, and Article 6, as an official of the governing authority and has taken an oath to support and uphold the Constitution of the United States. The fraud on the Court committed by the Respondent is unlawful and the Petitioner takes the position that it is reversible error on the authority of facts, laws, actions in conflict with the Constitution, the appeal denied, which supported the Court's unfair decisions with extreme prejudice and is **not** in the people's best interest. The Constitutional process is the people's best interest. The unconstitutional, conflicts, issues. illegal equity foreclosure process, is **not**,

A question for the Court is when fraud enters a case before any court on any event and this fraud is not resolved when brought to the attention of the court, this fraud will, in fact, affect any and all orders, judgements, decisions of said court that follows, ON Forgery. (Court illegal jurisdiction)

On the original attempt by the Respondent to place this illegal foreclosure property up for sale in 1997, The Petitioner contacted the Veteran's Administration and hand-carried to the Veteran's Administration a full and complete copy of any and all payments and documents thereto, so the Veteran's Administration could make an informed decision. The Veteran's Administration person, Mr. George McKinsey, after speaking directly face to face with the Petitioner and by phone with the Respondent, did find that the Respondent had no answers for the questions and stopped the original sale. The record will show that the last payment the Respondent received from the Petitioner was September 15, 1997. That is confirmed on the (illegal notice, exhibit A,) from the Respondent to the Petitioner, September 17, 1997, supported

by the illegal foreclosure On the forged document of Article P-969 340 332 of the illegal certified mail that was never sent through the postal service. The two money orders for that payment were 67520500242 and 67520500435.

1. Veteran's Administration, in stopping the original sale, stated clearly on the record to the Petitioner to not pay any more payments to anyone until said case was resolved (Appendix B, Appendix R).

2. The Veteran's Administration on or about 1994-95 had appraised the home/property of the Petitioner to be sold by the Petitioner for $230,000.

3. The Veteran's Administration knew that the Petitioner had a renter/purchaser in the home that had a signed agreement, witnessed to, to purchase the home for $229,900.

4. The renter/purchaser was living in the home with a contract to pay all utilities, to upkeep the home in the condition that it was in at the time of the VA appraisal, and pay to the Owner/Petitioner a monthly rent until sold for $1,500/month.

5. When Bank America and the Respondent, with full knowledge of the purchaser's/renter's position, and the position of the Petitioner, placed this illegal foreclosure before the Court, the renter/purchaser exercised its right to decline the sale and moved away.

On or about the year of 1998, the Respondent did timely raise the illegal foreclosure issue in the courts of Maryland again.

1. The home was put up for sale.

2. The Petitioner did send a certified letter to the Veteran's Administration, to Bank America and to the Respondent in protest.

3. When the Petitioner received no response from the above parties, the Petitioner did contact the Remax Realty Office to intercede on the Petitioner's behalf, with clear precise information to resolve the issue, or file bankruptcy to stop the illegal foreclosure. (legal process).

4. The Remax Realty, Mr. Marshall Hampton, did make contact with Bank America and the Respondent on, before, during and after the illegal sale of this property to the Veteran's Administration.

5. Bank America and the Respondent did respond to Remax Realty with false pretense and promises to resolve the issue.

6. Bank America would buy back the property and then sell the same property to the Veteran's Administration on the same date and time without any further contact with the Remax Realty agent.

A point of interest for the Court to show genuine conflict of a material fact which should have been in dispute, which was in dispute, and which should have sent the case to trial by jury.(process is substantively unconstitutional)

POINT: Remax Realty was in a position to resolve the case by judicial process and/or filing bankruptcy for the Petitioner. Remax Realty had been paid up front in cash to act as the Petitioner's agent. The Respondent/Plaintiff all were aware. The Veteran's Administration on the first sale had denied the sale because the documents and payments were confirmed. On the second sale on the same information, the Veteran's Administration would now purchase the property. This is a jury question of genuine dispute of material facts. The Circuit Court of Maryland could **not** in any good faith rule on the question of law. The illegal sale was made to the Veteran's Administration. The Veteran's Administration to date has not put in one single dollar of the Veteran's Administration in harm's way. The only party that is damaged from this illegal process is the Petitioner and the Petitioner's family. The Petitioner did place before the Circuit Court a bond to preserve the property, through the judicial appeal process, but had no effect.

The Circuit Court Case CAE 97-16794 was filed on appeal with the Court of Special Appeals of Maryland, No. 1832, September term, 1999. The Petitioner's brief was filed

with the Court of Special Appeals on May 11, 2000, which contained the information herein with exhibits and documents to confirm as per the Maryland rule. The Court of Special Appeals would make its ruling that is in direct conflict with the Constitution of the United States under Maryland Rule 8-114, Unreported Opinion. This opinion of the Special Court of Appeals has no authority and cannot be used in any court as a precedent authority. The unreported opinion is harmless error. The Petitioner takes issue with this unreported decision under the condition that if the Petitioner does not respond and appeal this unreported decision to the Court of Appeals, the lower court's errored decision will stand. This decision is in direct conflict with the constitutionality of the process (Maryland Rule 8-131, Scope of Review, Jurisdiction).

1. This decision states clearly, that all the evidence presented in the Petitioner's brief, (did **not** exist)

2. This unreported opinion states clearly on the issue of jurisdiction that the Petitioner was in error to the Maryland Rule 14-204, precedent condition, of which the lower court obtained jurisdiction over the illegal foreclosure.

3. This unreported opinion states clearly that the Respondent was well within the law when it filed its notice for jurisdiction to the Circuit Court under Rule 14-206, the notice of sale supported by affidavit. This was the old rule in the 1980's (Rule 14-204 Legal Jurisdiction Only). The Special Court of Appeals also recognized the fact that the Petitioner was without counsel due to the fact that any counsel that took the Petitioner's case would also recognize the misconduct and the magnitude thereof, would require any attorney or officer of the court/counsel to report said misconduct to the Court of Appeals/Bar because of its extreme conflict with the constitutionality of the process. The Respondent's brief/documents to confirm is Appendix 44, 45 respectively, Exhibit A.

The Petitioner on the same day of receiving the Court of Special Appeals' opinion, filed its petition with the Court

of Appeals of Maryland, Petition Docket No. 115, September term, 2001. The action by the Maryland Court of Appeals is in direct conflict with Maryland Rule 8-131, Scope of Review, the Federal Law, the Maryland Constitution, and the Constitution of the United States. The issue of jurisdiction is mandatory. The issue of jurisdiction is always before any and all courts. The issue of jurisdiction must be resolved before any court can exercise its authority over the process. Jurisdiction was never waived by either party and especially the Petitioner. The Court of Appeals should have decided the issue of jurisdiction, the issue of notice, the issue of summons and service, which would be necessary and desirable to guide the trial court to avoid the expense and the delay of any and all appeals to the Supreme Court. The Constitution is in conflict with the Maryland Court of Appeals' decision process is substantively unconstitutional

1. The conflict is clear. The Constitution of the United States is by far one of the most important documents of modern man. Its articles, its Bill of Rights, its amendments are desirable and in the public interest.

2. The illegal foreclosure threat to all home owners and would-be home owners, is at this time being closely looked at on complaints from the people, the AARP Foundation, HUD, and the North Carolina Fair Housing Center and housing authorities across the country because the unscrupulous lenders are milking senior citizens and some other home owners for all they are worth. Testimony from the Assistant Secretary of HUD has classified these fraudulent activities as "predatory lenders and those that help them are making the American dream into a living nightmare". The Petitioner did file this Congressional hearing testimony before the Maryland Court of Appeals on April 24, 2001 on a reconsideration motion.

3. On notification from the Petitioner to the Respondent, of the Petitioner filing this original appeal and reconsideration motion. Respondent who did not, **not** responded

4. The Respondent would now contact the VA, the illegal owner of the property on fraud. The VA's attorney would now file with the lower court, the Circuit Court, a motion on May 9, 2001 to take possession of the property by affidavit of the best of my belief and knowledge.

5. The Petitioner would respond to the illegal motion by stating clearly to the lower court, the Circuit Court of Maryland, that jurisdiction lies with the Court of Appeals under affidavit of personal knowledge, documents to confirm.

6. At the August 3, 2001 hearing, the attorney for the illegal buyer, Veteran's Administration, would state clearly on the record what it was told by the Respondent and what action it took, not contacting the Court of Appeals who had legal jurisdiction over the action. The Veteran's Administration's attorney would contact the Court of Special Appeals who had no legal jurisdiction over the action and whose unreported opinion had **no** precedent authority. This is clearly an illegal use of process. This is clearly in conflict with the constitutionality of the process and discrimination.

7. Under the Constitution, the people have given the legislative branch the right to set the jurisdiction and burden of proof. This action is in direct conflict with the constitutionality of the process. The Court then set the next hearing date for August 17, 2001.

At the hearing of August 17, 2001, the Petitioner takes the position that this was clearly an out and out setup that is in total conflict with the constitutionality of the process. The Constitution under its amendments and articles will **not** let any court punish a party for bringing to the court's attention the lawful defects of the event. At the possession hearing, the VA attorney stated her name and position. This was the complete statement of her case. There were **no** further comments from this attorney, even when the Petitioner insisted to the Court that the opposition party take part in this illegal process and place on the record evidence to support their position. Clearly her affidavit was insufficient to sustain judgement. Clearly the affidavit placed before this

Court with documents to confirm the jurisdiction of the case as of April 24 to date by the Petitioner should have been constitutionally sufficient under the signature of the Clerk of the Court of Appeals to deny the Respondent's motion for possession. The Court held the documents in its hand, read the documents, saw and understood that, on the last page, the documents carried, under Rule 1-304 Form of Affidavit, the affidavit showing that the Petitioner had personal knowledge. "I solemnly confirm under the penalty of perjury and under the personal knowledge, that the contents of the foregoing papers are true, and it is signed by the Petitioner and a notary public, sealed and dated." (substantively unconstitutional)

1. These documents and the testimony of the Petitioner before this illegal hearing had **no** effect. The Court ruled for the Respondent and the VA attorney, giving the VA illegal possession of the Petitioner's home and property. Under Article 24, Due Process, this action by the Court is unconstitutional. Under the 14th Amendment, this action by the Court is very discriminatory. Under the Constitution, this is an illegal use of process to intimidate and punish the Petitioner for bringing before the Court knowledge of misconduct for which the Court does **not** want to administer justice. Under the Constitution, the article of equal protection in the people's interest has stated clearly that justice is blind. The Court should **not** be respective of the title and position of any party before the Court over that of the constitutionality of the process. Due process, Article 24, requires that both parties be able to present their cases in its entirety before the Court and place before the Court admissible, prima facie evidence to confirm. The Court, as an interpreter of the Constitution, the laws and the rules, must determine if a genuine dispute of material facts exists. The Respondent/Plaintiff, the same as it had done before the Court of Appeals, placed **no** information on the record, placed **no** dispute of the Petitioner's evidence, facts, conditions of facts. As a question of law, the Respondent had conceded to the Petitioner's position, facts and evidence.

The Respondent had consented to their existence as truth of fact. The Court is required by law **not** to view the evidence from any point of credibility. The Court is required by law to view the facts on their existence and if a dispute exists, the facts would become trialable facts before a jury. To avoid a jury trial and the conflict of the Constitution, the Respondent offered no dispute and no statement to the Court on the Respondent's motion. The Court is now by law required to rule on the evidence that is before the Court. The only possible ruling by a fair Court, a constitutional Court, would have been to dismiss the motion as insufficient evidence to support its position. At best, it would have become a trialable issue. The Petitioner takes the position that the actions of the Circuit Court, the Court of Appeals at the hearing of August 17, 2001 was an act of extreme prejudice, unfair, unconstitutional, with the Court taking part in an action to intimidate the Petitioner out of its constitutional rights. The conflict is clear. This action by the Maryland Court is unconstitutional and is clearly reversible error. The Petitioner prays that the Supreme Court will look at it from the point of view of the Constitution that justice is blind and award the Petitioner the relief as required by blind justice under the Constitution.

The Petitioner raises these questions/issues on the direct action of the Respondent, use of unlawful means of forged documents, forgery of the Petitioner's signature without the Petitioner's consent or knowledge, the uttering of this forgery to and before the Circuit Court and the Court of Appeals, and bad faith with intent is extreme misconduct by MANIPULATED PROCESS TO PUNISH THE INNOCENT PETITIONER AND REWARD THE GUILTY RESPONDENT. And intimidate the Courts to uphold their rights to be above the law and the license to steal the property. , Amendment 1, Amendment 4, Amendment 6, Amendment 7, Amendment 9, Amendment 10, Amendment 14, and the BILL OF RIGHTS. **compelling equal protection.**

REASON FOR GRANTING THE PETITION

"Supreme Court REVIEW will impact" all events and issues of Constitutional rights protection.The Congressional Committee hearings on illegal process, which spans substantively many violations of the Constitution, the law. The AARP, HUD and all other housing authorities across the nation have so testified to this event illegal foreclosure threat

The American people, the Constitution, would petition the Court to review the law, the facts and actions thereto, and right the wrong to prevent the future occurrence of this bad faith action of misconduct, risky behavior by an officer of the Court and party to a judicial process from putting the public's trust, the integrity of the judicial process and the Constitution at risk. This illegal foreclosure action is very real. Constitutional rights guarantees **equal protection.**

The impact of the Respondent's illegal action has made a clear statement that it will take any illegal position over the Constitution any day and with the concealment of Maryland's Courts illegal departure from the Constitution. Their decision loses the trust of the people.for PROTECTION,

1. The representatives, members of all states, legislatures, judges, state officials, federal officials must promise under oath to respect, protect and support the Constitution in order to exercise the authority of their given position under the trust of the American people's **(protection.)**

The Constitutional rights of the Bill of Rights under Constitutional authority.**compelling state interest** Due process.

The Maryland Courts state clearly that the people do not have any Constitutional rights, protection over illegal profit taking without counsel. The Courts do not have the will to conform to the Constitutional law with any and all respect, protection, and preservation to keep the people's trust.**(compelling state interest and equal protection.)**

The American people's life and well being depend heavily on the protection of their Constitutional rights, the Court's preservation of these rights, and the Congress's protection of these rights.**(compelling equal protection.)**

The American people did ask Congress for help on these illegal predator lenders' foreclosures that consequently IMPACT all homeowners and would-be homeowners. The Congressional impact was to hold hearings and confirm that the people had a very big problem with the illegal predator lenders' illegal foreclosures by those who would profit from this illegal action.

The Congress found this illegal action did, in fact, impact all homeowners, especially senior citizen homeowners with high equity in the property to be at risk. The action of the predator lenders and those who support them was making the American dream a living nightmare that had reached an epidemic stage. The Congress in considering the problem in a way to stop the predator lenders and prevent its reoccurring. The impact of the Respondent's illegal action is proof. The predator lenders' illegal action spans the total impact of a heavy toll on the American public. All homeowners are at risk. This illegal action is very real and I pray the Supreme Court will address these illegal actions on review. The Maryland Courts substantially abused their discretion and authority with extreme prejudice by abandoning and deporting the Constitutional process, which stands the Constitution on its head. Due process is Constitutional.(**compelling state interest equal protection**)No Court can deny a citizen its Constitutional rights on the forgery of any and all jurisdictional matters.

The respondent's bad faith, unconstitutional action/position is very clear. RISK versus GAIN (the respondent's risk the Circuit Court's lacking the will to address the case as per the constitution, the Court of Special Appeals' unreported decision). The Court of appeals would not review the case. The Supreme Court's number of cases received versus the number of cases that can be reviewed.

THIS IS THE RESPONDENT'S IDEA. Gain versus unlawful action as a license to STEAL and the constitution be damned. to Article 23: to Jury Judges of Law and Fact, Right of Trial by Jury in Civil Proceedings, is constitutional.

The Special Court and Court of Appeals of Maryland's decisions on the respondent's bad faith actions imposes a much greater demand, a much greater burden of proof and liability on this petitioner than the Maryland law, Federal law, or the Constitution requires, evidence (Exhibit A)

The Constitutional authority of the 14th Amendment, Civil Rights: Authority, Article 24, Due Process:

The Respondent's evidence (Exhibit A) certified mail, P-969 340 332 is fraud on the Court, a scheme, scam to control, interfere with the legal judicial machinery, performing Court task of impartial adjudication, the forgery/forged documents for ex parte judgements, prevented the opposing party from appealing and fairly presenting his whole case/any case of defense. The Respondent's gregarious misconduct, knowingly placing fabrication of evidence to mislead the Court's judgements by and diminishing the integrity of the judicial process. Stone v. Stone, Alaska, 748 p 2d., 582, 586 will impact unconstitutionally control the Courts and the injuries the Petitioner and the American people/Constitution would suffer.

The Respondent's evidence (Exhibit A) to illegal foreclosure is malicious abuse of the legal process, willfully misapplying Court process to obtain object not intended by law by forged evidence, forgery of opposing party's signature, with intent to secure property of opposing party. Hughes v. Swinehart, D.C. pa. 346F. supp. 150.652.

The Maryland Court of Appeals has held that the Constitution and the decisions of the U.S. Supreme Court on the 14th Amendment are practically direct authorities. Maryland Lawyers Individual Civil Rights, C7W. Balt. L. rev. 249 (1978) very heavy toll financial status. This unconstitutional action has cost the Petitioner, at 65 years of age, and his family's life savings and has caused the Petitioner to place his home in harm's way at a risk of $125,000 to date in order for the Petitioner, without use of counsel, to keep the Respondent and the Court from illegally seizing the Petitioner's property, on forged evidence, forged signature,

When there was no outside pressure ON the Circuit Court at the original (non ex parte) hearing of 8/6/99 with both parties present for the first time, the court heard, for the first time, the truth, how illegal this illegal foreclosure was/is. From the exchange of the documents/evidence, the Honorable Court from the bench stated to the parties to resolve/settle this dispute/issue. The respondent chose this back door scam. (The Respondent's Exhibit A. forgery)

The respondent understood his risk versus his gain, the court's review process as an obstacle race, and with the petitioner being without counsel, and not by choice, with his title and position with others as support, could greatly affect the prejudicial outcome in his favor. The court now under great pressure would lack the will/obligation, purpose and construction to ascertain the truth and proceedings to be justly determined. **compelling state equal protection**.

This respondent's scam/fraud is to defeat the constitutional process by the back door and avoid a trial by jury that will protect his fraud on the courts, and we the people's trust/protection in the constitutional process be damned. **compelling** fraud (substantively unconstitutional). The Circuit Court transcripts are so greatly errored they could not be used in any fair constitutional due process. (TO PUNISH). Supreme Court review, we the people/Congress/Supreme Court can repair/correct this substantially unconstitutional action, problem and make sure it does not ever raise its unlawful head again, EVER. Forgery. To avoid a jury trial.

CONCLUSION

The Petitioner prays that the Supreme Court will review this unconstitutional act that puts the American people and the Constitution at risk and afford all home owners the protection of its Constitution, its trust and use due process to correct this illegal Respondent/Maryland Court of Appeals' action, granting the Petitioner's release as per Rule 2-535, Judgement. (ON The Respondent's evidence (Exhibit A)

William Smith c/o Mary Moore
1123 Congress St., SE
Washington, D.C. 20032 Tel: 202-561-7578

Respectfully submitted,

UNREPORTED

IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1832
September Term, 1999

WILLIAM SMITH
v.
ALVIN E. FRIEDMAN, et al.
Substitute Trustee

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*Moylan,
Krauseer,
Getty, James S.,
(Retired, specially assigned)

JJ.

Opinion by Krauser, J.

Filed: March 29, 2001
#CAE9716794

*Moylan, J., participated in the hearing and conference of this case while an active member of this Court; he participated in the adoption of this opinion as a retired, specially assigned member of this Court.

Appendix A

This is a *pro se* appeal from an order of the Circuit Court for Prince George's County, overruling exceptions of appellant, William Smith, to an auditor's report filed in connection with the foreclosure sale of his residence. In his confusing and frequently unintelligible thirty-five page brief, appellant appears to be claiming, notwithstanding that this is an appeal from the ratification of the auditor's report, that the circuit court erred in failing to vacate the ratification of sale judgment entered in favor of the substitute trustees, Alvin E. Friedman, Kenneth J. MacFayen, James J. Loftus, and Daniel Menchel; all of whom are appellees in this case. For the reasons that follow, we shall affirm the judgment of the circuit court.

Facts

Appellant, William Smith, applied to Guardian Mortgage and Investment Corporation ("Guardian") to obtain refinancing of an existing loan on his residence in Fort Washington, Maryland. On March 17, 1986, Appellant executed a promissory note in the amount of Ninety-Four Thousand Three Hundred Dollars ($94,300.00) secured by a deed of trust on his residence. The note required appellant to pay to Guardian a specified amount of the principal sum plus interest each month. The note also contained an acceleration clause, which provided that in the event of a default, the entire debt, plus interest, advances and charges would become due and

payable at the option of Guardian. The note was subsequently assigned by Guardian to the Bank of America, FSB ("BOA").

Eventually, appellant failed to make payments due under the note and the acceleration clause was invoked. Appellees were appointed as substitute trustees by BOA, the current noteholder, to conduct a foreclosure sale.

On August 20, 1997, appellees commenced foreclosure proceedings by filing an order to docket in the Circuit Court for Prince George's County on August 20, 1997. *See* Md. Rules 14-202 (a) (1),[1] 14-204 (a).[2] With the order to docket, appellees filed a "Statement of Debt Due Under Deed of Trust and Deed of Trust Note," a "non-Military Affidavit," and copies of the deed of trust and deed of trust note as required by Md. Rule 14-204 (a) (1)-(4).

On October 1, 1997, appellees filed a ninety-six thousand dollar bond with the State of Maryland and a foreclosure sale as scheduled. *See* Md. Rule 14-206 (a). Ultimately, that sale was postponed and rescheduled for July 22, 1998.[3]

---

[1]Rule 14-202 (a) (1) states, in part, "that an action to foreclose a deed of trust shall be instituted by any trustee appointed in the deed or any successor trustee."

[2]Rule 14-204 (a) states, in part, that "[a[n action to foreclose a lien pursuant to a power of sale shall be commenced by filing an order to docket."

[3]The foreclosure sale was originally scheduled for October 14, 1997; however, on October 10, 1997, the Veteran's Administration instructed the trustees to cancel the sale and the trustees complied. On March 17, 1998, the trustees were informed that they could proceed with the foreclosure.

Appendix A-2

On August 17, 1998, appellees filed an affidavit stating that on July 10, 1998, appellee Daniel Menchel "mailed or caused to be mailed, by certified and by regular mail, notice of the, place and terms of the sale on Wednesday, July 22, 1998 under this foreclosure," to among others, appellant, as mortgagor and as present record owner. *See* Md. Rules 14-206 (b) (2) and (4).[4] That same day, appellees also filed a "Report of Sale," stating: that advertisements giving notice of the sale had been published for more than three successive weeks in the Enquirer Gazette, a Prince George's County paper; that the subject

property was sold on July 22, 1998; and that BOA, the noteholder, purchased the property for $110,835. *See* Md. Rule 14-305 (a).

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[4]Rule 14-206 (b)(2) requires that:

(2) By certified and first class mail. (A) Before making a sale of the property, the person authorized to make the sale shall send notice of the time, place and terms of sale by certified mail and by first class mail to the last known address of (i)the debtor, (ii) the holder of any subordinate interest in the property subject to the lien.
(B) The notice of the sale shall be sent not more than 30 days and not less than ten days before the date of the sale. . . .

* * *

(4) Return receipt or affidavit. The person giving notice pursuant to subsections (b) (2) and (b) (3) of this Rule shall file in the proceedings an affidavit (A) that the person has complied with the provisions of these subsections. . . .

Appendix A-3

On October 5, 1998, the clerk of the circuit court gave notice that the sale would be "ratified and confirmed, unless cause to the contrary thereof be shown on or before the 5th day of November 1998." *See* Md. Rule 14-305 ©. The court's notice was published in the "Enquirer Gazette ... once in each of three consecutive weeks before the 5th day of November 1998, next" and, after no cause was shown, the sale was "finally ratified and confirmed" on November 9, 1998. *See* Md. Rules 14-305 © and (e). The matter was then referred to a court auditor, who, on April 15, 1999, filed a report stating that net proceeds were "insufficient to pay the secured debt and accrued interest, resulting in a deficiency" of $1,158.34.

On April 22, 1999, appellant filed a handwritten, virtually unintelligible, exception to the auditor's report. Appellees answered the exception on July 9, 1999, and a hearing was held on August 6, 1999.[5] At that hearing, appellant first challenged the foreclosure on the grounds that

he "had no notice of anything from the Court," but he later admitted that he had received notice of the foreclosure sale from appellees. Appellant then alleged that

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[5] While appellant's exception to the audit was proceeding, on August 3, 1999, the Department of Veterans Affairs filed a motion for judgment awarding possession to evict appellant from the subject property. Appellant was ordered to show cause why the judgment of possession should not be granted and a hearing was scheduled for November 18, 1999. At that hearing, appellant stated that the foreclosure sale was on appeal and the court informed appellant that he would have to file a supersedes bond to stop the eviction. Appellant filed the $7,500.00 bond to stay the eviction pending this appeal.

BOA had altered the date on his check to make it ap0pear that his payment was late. The court reminded appellant that he had filed no exceptions to the ratification of the foreclosure sale, that the judgment had been enrolled and his time to challenge the foreclosure had passed. After stating that it could make no sense out of the packet of papers filed by appellant, the court suggested to appellant that he obtain an attorney and continued the case. This matter was then rescheduled for a hearing on September 9, 1999.

On that date, appellant appeared without counsel and the hearing resumed. When appellant renewed his attack on the lawfulness of the foreclosure sale, claiming fraud, the court once again informed appellant that the time to file exceptions to the foreclosure had passed, and that the only issue before the court was the ratification of the audit. Appellant thereafter argued that the "audit was based on fraud, deception, irregularity, and mistakes" and that he had not been properly served. At the conclusion of the hearing, the court overruled appellant's exceptions and entered an order ratifying and confirming the audit. From that order,

appellant now appeals.

Discussion

Appellant argues that the circuit court erred in failing to vacate the enrolled judgment, ratifying the foreclosure sale of his

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property, on the ground of fraud, mistake or irregularity. As appellant appears to have abandoned any challenge to the audit itself (if indeed he ever actually challenged that audit), we shall confine our analysis to his claim that the foreclosure sale was infected by fraud, mistake, or irregularity.

Maryland Rule 2-535(b) provides that "[o]n motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity." But the burden is on the moving party to present clear and convincing evidence of the alleged fraud, mistake, or irregularity and to demonstrate that he or she "has acted with ordinary diligence, in good faith, and has a meritorious defense or cause of action." *Tandra S. v. Tyrone W.*, 336 Md. 303, 314 (1994).

"The denial of a motion to revise under Rule 2-535(b) is appealable, but the only issue before the appellate court is whether the trial court erred as a matter of law or abused its discretion in denying the motion." *In re Adoption/Guardianship No.* 93321055/CAD, 344 Md. 458, 475 (1997).

Fraud, mistake and irregularity, in the context of Maryland Rule 2-535, have been narrowly defined by our appellate courts. To establish fraud under the rule, the moving party must show "extrinsic fraud:" fraud that "'prevent[s] the actual dispute from being submitted to the fact finder at all.'" *Tandra S., 336 Md.* At

316 (quoting *Hresko v. Hresko,* 83 Md. App. 228, 232 (1990). In other words, extrinsic fraud exists

> "'[w]here the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court, a false promise of a compromise; or where the defendant never had knowledge of the suit; being kept in ignorance by the acts of the plaintiff; or where an attorney fraudulently or without authority assumes to represent a party and connives at his defeat; or where the attorney regularly employed corruptly sells out his client's interest to the other side, - these, and similar cases which show that there has never been a real contest in the trial or hearing of the case, are reasons for which a new suit may be sustained to set aside and annul the former judgment or decree, and open the case for a new and a fair hearing.'"

Id. at 316-17 (quoting *Schwartz v. Merchants Mort. Co.,* 272 Md. 305, 309 (1974) (quoting *United States v. Throckmorton,* 98 U.S. 61, 65-66 (1878))).

On the other hand, "mistake," under the revisory rule, "is limited to a jurisdictional error, i.e., where the court has no power to enter the judgement." *Id.* at 317. And "irregularity" is "'the doing or not doing of that, in the conduct of a suit at law, which, conformable to the practice of the court, ought or ought not to be done.'" An Irregularity under Rule 2-535 is usually limited to irregularities in the procedure or process . *Id.*

The only fraud claimed by appellant is his unsupported allegation that BOA altered the dates on his checks. Even if true,

however, that action, though fraudulent, constitutes intrinsic, not extrinsic fraud. Intrinsic fraud is "'[t]hat which pertains to issues involved in the original action or where acts constituting fraud were, or could have been, litigated therein.'" *Id.* at 316 (quoting *Hresko,* 83 Md. App. at 232 (quoting in part BLACK'S LAW DICTIONARY (5th ed. 1979))); *see also Schwartz,* 272 Md. at 308 (stating that "enrolled decree will not be vacated even though obtained by the use of forged documents, perjured testimony, or any other frauds which are 'intrinsic' to the trial of the case itself"). Because the claim of altered checks goes to the very heart of the question of whether appellees had a right to foreclose on appellant's property in the first place, it should have been litigated when the foreclosure action was first filed It therefore clearly falls within the category of intrinsic fraud.

As to mistake, appellant argues that service and notice were defective and therefore, "the Court never had jurisdiction over this defective foreclosure action." But the record shows that appellees complied with the Maryland Rules in foreclosing on appellant's property. Rule 14-206 (b) (2) (A) requires that the debtor and the record owner be notified of the "time, place, and terms of sale." Rule 14-206 (b) (4) states that "[t]he person giving notice pursuant to subsection (b) (2) and (b) (3) of this Rule shall file in the proceedings an affidavit (A) that the person has complied with the provisions of these subsections." Appellant

admitted being served with notice of the foreclosure sale at the first exceptions hearing on August 6, 1999, and appellees filed the required affidavit confirming that fact.

In sum, appellant failed to present any credible evidence of fraud, mistake, or irregularity, as contemplated by Rule 2-535, that would warrant vacating the enrolled

judgment, ratifying the foreclosure sale of appellant's property. We therefore conclude that the circuit court did not abuse its discretion or err as a matter of law in declining to revise that judgment.

JUDGMENT AFFIRMED
COSTS TO BE PAID BY APPELLANT

Appendix A-9

MANDATE
Court of Special Appeals
No. 01832, September Term 1999

William Smith
vs.
Alvin E. Friedman et al., Substitute Trustees

Judgment: March 29, 2001: Judgment affirmed.
Costs to be paid by appellant.
Unreported opinion by Krauser, J.

April 30, 2001: Mandate issued.

From the Circuit Court: for **PRINCE GEORGE'S COUNTY 00CAE9716794**

STATEMENT OF COSTS:

Appellant(s):

Lower Court Costs -	60.00
Steno Costs of Appellant -	143.75
Filing Fee of Appellant -	50.00
Brief of Appellant -	129.60
Record Extract -	694.80

Appellee(s):

Brief of Appellee -	147.60

State of Maryland, Sct:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the saidCourt of Special Appeals. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals this thirtieth day of April 2001.

/s/ Leslie D. Gradet
Clerk of the Court of
Special Appeals

COSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE.

Appendix A-10

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND 97-16794

DAILY SHEET

Friedman — Civil Action No.CAE97-16794
K. MacFadyen
Plaintiff's or States Attorney
vs — Judge Johnson
Smith — Date 8/6/99
Defendant
Pro Se — Court Clerk Lee Cobb
Defendant's Attorney

DOCKET ENTRIES

1. Out of Assignment. 2. 3. 4. Exceptions withdrawn in Open Court. (5.) Hearing on Exceptions to Audit. 6. Hearing on Motion for Resale/Deficiency Decree. 7. Case Called; Defendant appeared. 8. Judge Johnson; Ms. J. Smith, Reporter. 9. Exceptions overruled/ sustained. 10. Motion granted/denied. 11. 12. Refer to the Auditor for review prior to ratification. 13. Property to be resold at sole risk and expense of defaulting purchaser. 14. Order of

Ratification of Report of the Auditor signed/dated to remain in full force and effect. 15. Order of Ratification of Sale dated is vacated and stricken. 16. Order signed and attached/to be submitted. 17. Reset to 9/9/99, 1:30PM for further hearing before Judge Johnson.

Stamped: Entered 8-10-99

Appendix B-1

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

DAILY SHEET

Friedman — Civil Action No. CAE 97-167894
Plaintiff
Kenneth MacFadyen
Plaintiff's or States Attorney

vs — Judge Johnson
Smith — Date 9/9/99
Defendant
Pro Se — Court Clerk Lee Cobb
Defendant's Attorney

DOCKET ENTRIES

1. Out of Assignment. 2. Letter dated 9/7/99 from K. MacFadyen, filed. 3. 4. Exceptions withdrawn in Open Court. 5. Hearing on Exceptions to Audit. 6. Hearing on Motion for Resale/Deficiency Decree. 7. Case called; Defendant appeared. 8. Judge Johnson; Ms. Hernandez, Reporter. 9. Exceptions overruled. 10. Motion granted/denied. 11. 12. Refer to the Auditor for review prior to ratification. 13. Property to be resold at sole risk and expense of defaulting purchaser. 14. Order of Ratification of Report of the Auditor signed and attached. 15. Order of Ratification of sale dated is vacated and stricken. 16. Order signed and attached/to be submitted. 17. Reset , 1:30PM for.

Appendix B-2

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Alvin E. Friedman, Kenneth J. MacFadyen
James J. Loftus and Daniel Menchel
Substitute Trustees
Plaintiffs

Stamp:
Clerk of the
Circuit Court
01 Jun 25 PM 2:31
PR Geo Co Md #6

v.

Civil No. CAE 97-16794

William Smith
Defendant

MOTION

The Defendant's motion for separation of questions for decision by Court on law, facts, action by the parties thereto a legal foreclosure v. an illegal foreclosure and its effects.

Comes now: The Defendant in all good faith states, the Defendant is without counsel due to the bad faith, misconduct, forgery, alterations, moral turpitude with malicious abuse of legal process and due process under Art. 24 of the Constitution. The authority of this rule 2-502.

(A) Malicious abuse of legal process. Willfully misapplying court process to obtain object not intended by law. The willful misuse or misapplication of process to accomplish a purpose not warranted or commanded by the writ. The malicious perversion of a regularly issued process, whereby a result not lawfully or properly obtained on a writ is secured, not including cases where the process was procured maliciously but not abused or misused after its issuances.- The employment of process where probably cause exists but where the intent is to secure objects other than those intended by law. Hughes v. Swinehart,D.C. Pa., 376 F. Supp. 650, 652. The tort of "malicious abuse of process" requires a perversion of court process to accomplish same and which the process was not designed to accomplish, and does not arise from a regular use of process, even with ulterior motives. Capital Elec.Co. v. Cristaldi, D.C., Md. 157 F. Supp. 646, 648. See also Abuse (Process); Malicious prosecution. Compare Malicious use of power.

(B) Malice in law. The intentional doing of a wrongful act without just cause or excuse. Lyons v. St. Joseph Belt Ry. Co. 232 Mo. App. 575, 84 S.W. 2d 933, 944. Implied, inferred, or legal malice. As distinguished from malice in fact, it is presumed from tortious acts, deliberately done without just cause, excuse, or justification, which are reasonably calculated to injure another or others. See also Legal malice. Compare Malice in fact.

(C) Malicious prosecution. One begun in malice without probably cause to believe the charges can be sustained. An action for damages brought by person, against whom civil suit or criminal prosecution has been instituted maliciously and without probably cause, after termination of prosecution of such suit in favor of person claiming damages. Beaurline v. Smith, Tex. Civ. App., 426 S.W. 2d 295, 298.

(D) Rule 2-502. Separation of questions for decision by court. If at any stage of an action a question arises that is within the sole province of the court to decide, whether or not the action is trialable by a jury, and if it would be convenient to have the question decided before proceeding further, the court, on motion or on its own initiative, may order that the question be presented for decision in the manner the court deems expedient. In resolving -

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

DAILY SHEET

Civil Action No. CAE 97-16794

Friedman
Plaintiff

Judge Dawson
Date August 17, 2001

Smith
Defendant

Court Clerk Janice Carter

Present
Defendant's Attorney

Courtroom Number 302D

Note: All, W.S. Premature to:

DOCKET ENTRIES

1. Return of Private Process Server, filed. 2. 3. Premature to Rule 2-507. Dismissal for lack of jurisdiction (a) Scope. This Rule applies to all actions. Rule 8-605. Reconsideration. Rule 8-606. Mandate. (a) To evidence order of the Court. Out of assignment. 4. Hearing on Rule to Show Cause (Possession). 5. Case called; Respondents failed to appear. 6. Judge Dawson; Mrs. Lehman, Reporter. 7. 8. Good cause not having been shown. Possession granted. 9. Order for judgment Awarding Possession, signed and attached. 10. Order to be submitted. 11. Disposition Hearing date: , at 9:00 A.M. 12. Reset , at 1:30 P.M. for Rule. 13. To be reset. 14. Counsel and/or Parties have been notified. 15. Notices to be sent. 16. Order of Ratification of the Report of the Auditor signed and attached.

Note: Error: Please see lack of jurisdictional motion of Aug. 24, 01 with show cause only error by the Court. Authority Rule 2-507 anytime, Rule 2-311.

/s/ William Smith #9

E-8-22-01

Appendix B-4

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Alvin E.Friedman, Kenneth J. MacFadyen,
James J. Loftus and Daniel Menchel
Substitute Trustees
Plaintiffs

v. Civil No. CAE 97-16794

William Smith
Defendant

ORDER GRANTING MOTION FOR JUDGMENT AWARDING POSSESSION

Upon consideration of the Motion for Judgment Awarding Possession filed herein by Laura H. G. O'Sullivan, attorney for the purchaser and it appearing that good cause not having been shown, it is by the Court this 17 day of August, 2001.

Ordered, that judgment of possession of the premises known as 11604 Kimberly Woods Lane, Fort Washington, Maryland 20744 be, and is hereby awarded to Department of Veterans Affairs; further that the Clerk be, and he is hereby authorized and directed to issue a Writ commanding the Sheriff to place Department of Veterans Affairs in possession of the subject property forthwith.

/s/ Judge Herman C. Dawson
JUDGE

cc: Laura H. G. O'Sullivan
Symonds, Oosterhout & Curran
True Copy - Test
8101 Sandy Spring Rd., #302
/s/Roslyn E. Reed
Laurel, MD 20707

E-8-22-01

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Alvin E. Friedman, Kenneth J. MacFadyen, James J. Loftus and Daniel Menchel
Substitute Trustees
Plaintiffs

Stamp: Clerk of Circuit Court Aug 21 AM 10:41 PR GEO CO MD #6

v. Civil No. CAE 97-16794

William Smith
Defendant

Motion - Circuit Court Lack the Jurisdictional Authority, Rule 2-507 Dismiss Judgment.

The Defendant's motion for justice, Due Process Art. 24 Constitution, and the Defendant's and Court's proper use of the authority of Rule 2-535 (A & B). Revisory Power over the Error of Judgment motion of Illegal Possession of Aug. 17, 01.
(Rule 2-311/Hearing , "Requested Hearing Rule 2-507").
Comes now: The Defendant in all good faith, and for judicial justice, clarity. The Defendant moves by affidavit of personal service of all contents herein, a preponderance of prima facie, admissible evidence in material facts do exist. (1) The Circuit Court lacks legal jurisdiction of Plaintiff's illegal motion May 9, 01. (2) The Plaintiff's possession motion is illegal with intent of malicious use of process/punishes the Defendant by Court intimidation. Points and authorities - Rule 2-535 Revisory, Rule 2-507, Lack of Jurisdictional Dismissal, Jurisdiction on Illegal Forgery 22- % 223841, Rule 2-501 Summary Judgment Rule, Comply, Rule 5-901 Authentication of my signature, Rule 805 Court of Appeals Authority of Misconduct of Plaintiff, Rule 8-131 Scope of Review Jurisdictional, Rule 8-422 Stay of Judgment, Rule 8-424 Bond, Rule 8-605 Reconsideration, Rule 8-606 Mandate Jurisdictional Appeals Court. (A) The Circuit Court errored to illegal sale, possession to VA.

Letterhead of Law Offices, Friedman & MacFadyen

Exhibit A

SENSITIVE MATERIALS

Mr. William Smith
11604 Kimberly Wood Lane
Fort Washington, Maryland

September 17, 1997

Re: 11604 Kimberly Wood Lane
Loan No. 0003853769
Our File No. 507648

Dear Mr. Smith:

Enclosed herewith please find your check no. 6752050024 in the amount of $600.00 and check no. 67520500435 in the amount of $600.00 remitted as payment to the above captioned account.

These funds are being returned as they are insufficient to reinstate your loan.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

(Exhibit A) Facsimile of P 969 340 332 U.S. postal return receipt with notes:
Restricted Delivery, Box 2, not marked.
To: William Smith
11604 Kimberly Wood Land
Fort Washington MD 20744
U.S. Postal Service Stamp Sep 18, 1997 Ft. Washington, MD 20744
Box 5 – Print Name – (for) William Smith § 22-3841, Forgery.
Box 6 – Signature name - (for) William Smith ←
§ 22-3841 – forgery (3 counts) – W. Smith
Forgery and uttering involve moral turpitude. Forgery and uttering are crimes involving moral turpitude per se. In re Schwartz, App. D.C., 619 A.2d 39 (1993) (but see In re Wilkens, App. D.C., 649 A.2d 557 (1994).

Illegal notice foreclosure - Rule 2-535 Revisory Power. (a) Generally. on motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action that it would have taken under Rule 2-534. (b) Fraud, mistake, irregularity. On motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake or irregularity.

Illegal Service Foreclosure Jurisdiction. Failure to request restricted delivery; attempted service by certified mail which does not request "Restricted Delivery" is insufficient. Quann v. Whitegate-Edgewater. 11 F.R.D. 649 (D. Md. 1986).

§ 22-3841. Forgery (3 counts)

Appendix B-7

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Alvin E. Friedman, Kenneth J. MacFadyen
James J. Loftus and Daniel Menchel
Substitute Trustees
v. Plaintiffs Civil No. CAE 97-16794
William Smith
Defendant

ORDER TO SHOW CAUSE

It is ordered by the Court this day of 2001 that the Plaintiff, Alvin E. Friedman, Kenneth J. MacFadyen, James J. Loftus and Daniel Menchel, Substitute Trustees and Attorney for illegal possession (VA) Laura H. G. O'Sullivan, or any other person with legal concerns show cause on or before the 2nd day of Nov. 2001 why the relief prayed in this motion for: Circuit Court lacking the jurisdictional authority of judgement Aug. 17, 2001; motion to dismiss illegal judgment, filed by this Defendant, should not be granted, provide a copy of the order and the said motion be served on

Plaintiff or other person holding under his/her by title subsequent to the Deed of Trust foreclosed by this illegal possession judgement Aug. 17, 2001 herein on, or before the 22nd day of Oct. 2001. "HEARING IS NEEDED."

Appendix B-8

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Alvin E. Friedman, Kenneth J. MacFadyen, James J. Loftus and Daniel Menchel
Substitute Trustees
Plaintiffs
v
William Smith
Defendant

Civil No. CAE 97-16794

Stamp:
Clerk of the Circuit Court
01 Aug 28 PM 10:49

INSTRUCTIONS TO SHERIFF

Mr. Sheriff:

A judgement has been issued in the above captioned civil action against William Smith for possession of real property in favor of Secretary of the Department of Veteran Affairs. This real property is located at **11604 Kimberly Woods Lane, Fort Washington, Maryland 20744.**

Further, you are hereby commanded to place Secretary of the Department of Veterans Affairs in possession of the subject property.

/s/ Laura H. G. O'Sullivan
PGCID **OS0341**
Attorney for the Purchaser
8101 Sandy Spring Road, Suite 302
Laurel, Maryland 20707
(301) 490-1196

Appendix B-9

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND E 97-16794

Alvin E. Friedman, Kenneth J. MacFadyen, James J. Loftus and Daniel Menchel
Substitute Trustees
Plaintiffs
v.
William Smith
Defendant

Civil No. CAE 97-16794
Stamp:
Clerk of the Circuit Court
01 Aug 28 PM 10:49

PLAINTIFF'S REQUEST FOR ENFORCEMENT OF JUDGMENT

A judgment has been issued in the above captioned civil action against William Smith for possession of real property in favor of Secretary of the Department of Veteran's Affairs. This real property is located at **11604 Kimberly Woods Lane, Fort Washington, Maryland 20744.**

Further, you are hereby commanded to place Secretary of the Department of Veterans Affairs in possession of the subject property.

/s/ Laura H. G. O'Sullivan
PGCID **O20341**
Attorney for the Purchaser
8101 Sandy Spring Road, Suite 302
Laurel, Maryland 20707
(301) 490-1196

Lgcl ept. 16, 2001 Jacket #2

ACTION RAISES MANY QUESTIONS?

---DOCKET ENTRIES---

1. CASE NO: CAE97-16794 DOCKET NO: 060 DATE: 08/28/01 STAFF INITLS: 016 DOCK TYPE: NOTE: PLAINTIFFS REQUEST FOR ENFORCEMENT NOTE: OF JUDGMENT, FD./MT
2. CASE NO: CAE97-16794 DOCKET NO. 061 DATE: 08/28/01 STAFF INITLS: 016 DOCK TYPE: NOTE: INSTRUCTIONS TO SHERIFF, FD./MT
3. CASE NO: CAE97-16794 DOCKET NO. 062 DATE: 08/28/01 STAFF INITLS: 016 DOCK TYPE: NOTE: WRIT OF POSSESSION ISSUED, FD./MT
4. CASE NO: CAE97-16794 DOCKET NO. 063 DATE: 08/21/01 STAFF INITLS: 012 DOCK TYPE: NOTE: MOTION CIRCUIT COURT LACK THE JURISDICTIONAL NOTE: AUTHORITY; RULE 2-507 DISMISS JUDGMENT, FD./LAH
5. CASE NO: CAE97-16794 DOCKET NO. 064 DATE: 08/24/01 STAFF INITLS: 016 DOCK TYPE: NOTE: MOTION TO HONOR STAY ON THIS LACK OF NOTE: JURISDICTIONAL JUDGMENT, FD./LAH
6. CASE NO: CAE97-16794 DOCKET NO: 065 DATE: 09/11/01 STAFF INITLS: 016 DOCK TYPE: NOTE: MOTION FOR ORDER TO SHOW CAUSE ON STAY, DATED NOTE: 9-6-01, DENIED, JUDGE DAWSON, FD./MT CC SENT TO NOTE: ATTY O'SULLIVAN AND W. SMITH

MANIPULATED PROCESS TO PUNISH THE INNOCENT PETITIONER AND REWARD THE GUILTY RESPONDENT. And intimidate the Courts to uphold their rights to be above the law and the license to steal the property. (SEE PRINTOUT ABOVE.

NOTE: (A) This is a second record that shows no Courts in Jacket #2? (1) The Court made its illegal judgment Aug. 17, 01 (Judge Herman G. Dawson). This printout is a pull/copy Sept. 18, 01 by Smith from clerk! (B) The Petitioner filed motion, lack of jurisdictional authority, dismissal judgment (Rule 2-507) under affidavit of personal knowledge, with all documents of Aug. 21, 01 (within 4 days), with my order to show cause on this motion and a hearing. (C) Note #4 case above shows no, NO show cause on file for this jurisdictional on file, why? Docket #063.

NOTE: Respondent did file 8/28/01 Plaintiff's request for enforcement of the illegal judgment of Aug. 17, 01. This is after the Petitioner filed his Aug. 21, 01 lack of jurisdictional authority motion to dismiss judgment (Docket #060)?

NOTE: Respondent did file 8/28/01, Instruction to Sheriff, Docket #061?

NOTE: Respondent did file 8/28/01, Writ of Possession issued, sent to Sheriff, Docket #062?

Note how they (Respondent and Clerk of the Court) use many outrageous errors of intent to contaminate others, infect justice and evade the Constitution.

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Alvin E. Friedman, Kenneth J. MacFadyen,
James J. Loftus and Daniel Menchel
Substitute Trustees
Plaintiffs
Civil No. CAE 97-16794
William Smith
Defendant

Stamp:
Clerk of the Circuit Court
01 Sep 27 PM 12:14
PR GEO CO MD #4

PROOF OF SECOND MOTION FILED

EMERGENCY MOTION – Authority – Rule 8-605 & 8-606, under the authority Rule 2-507. Court/Clerk error – emergency motion to strike, vacate order, lack of jurisdiction.

This Court lacks jurisdiction authority over motion May 9, 01, over judgment Aug. 17, 01, over all action to possession of property, case above, Rule 2-507 Jurisdiction Dismissal, Rule 2-311 Motion hearing requested on jurisdiction motion. Hearing was filed Aug. 21, 01 timely, with show cause order by this Defendant from Court error Aug. 17, 01. Judgment unlawful, premature to jurisdiction!

Comes now: The Defendant with all due respect, filed this emergency motion to give timely notice to all and the Court errors and the Plaintiff's action to date, destroys public faith, trust in Due Process (Art. 24) of mandatory jurisdiction any time, mandatory on compelling evidence for the Court to protect my Constitutional rights by clear law and facts. The evidence is clear that this judgment is in error.

The mere filing of an appeal from the judgment does not strip the trial court of its revisory power in a proper case, but if an appeal is still pending when a motion to strike the judgment comes on for hearing, the trial court lacks jurisdiction to entertain the motion, regardless of whether the motion is of the type that may be renewed or not. Tillery v. Elfenbein, 205 Md. 14, 106 A.2d 42 (1954).

This Court lacks jurisdictional authority, Rule 2-507. (A) As of Apr. 24, 01.

To rule by law. Rule 8-605 and 8-606. This Court must respect the law, the people expect the Court to protect their trust and Constitution.

Appendix B-12

(A) Purpose of requirement of affidavit is obvious, i.e., to require submissions of evidentiary facts to the court so it can determine if there are factual issues to be resolved. Wyand v. Patterson Agency, Inc., 266 Md. 456, 295 A.2d 773 (1972).

(B) If affidavit or other evidence shows genuine conflict, court should deny motion for summary judgment. The court does not attempt to decide any issue of fact or of credibility, but only whether such issues exist. Strickler Eng'g Corp. v. Seminar, Inc., 210 Md. 93, 122 A.2d 563 (1956).

POINT – The practice of the Plaintiff is abundantly clear to use errors and others of authority to cause technicalities to conceal the legal facts of this "forgery" for all court's jurisdiction from the people.

POINT: The Plaintiff will never give/sign any affidavit of personal knowledge and all of the documents in question of forgery § 22-3841 is their own documents? They cannot defend, attack, challenge but they can try to hide/conceal the evidence by errors!

<u>There is still time to correct this illegal event to judgment by my motion to strike/vacate all orders</u> from this May 9, 01 illegal motion to abuse the legal process by the Plaintiff and the illegal lack of jurisdictional judgment of Aug 17, 01 and <u>all action therefrom! I PRAY FOR A LEGAL CONCLUSION.</u>

(C) Rule 1-304: Form of affidavit

DEFENDANT'S AFFIDAVIT

I, William Smith, state with personal knowledge, "I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true."

/s/ William Smith

Subscribed and sworn to before me, in my presence, this 01 day of Oct. 2001, a Notary Public in and for the state of Maryland.

/s/ Catherine I.Witthar

My commission expires: Sept. 1, 2005

Appendix B-13

Letterhead Office of the Sheriff, Prince George's County, Maryland – Alonzo D.Black, II, Sheriff

EVICTION NOTICE

ERROR: Lack of jurisdictional authority, Rule 8-605 and 8-606, Court of Appeals, Rule 2-507 Lack of Jurisdictional Authority filed Aug. 21, 01 with show cause. No response to date, Rule 2-535, A and B, any time. WS

Occupant(s)
11604 Kimberly Woods Ln
Fort Washington, MD 20744

Dear Occupant(s):

This residence has been scheduled for eviction by order of the Circuit Court for Prince George's County. The scheduled eviction date is NOVEMBER 07, 2001.

The Office of the Sheriff requests that you have all personal property removed from the residence prior to the eviction date. No moving will be permitted once the eviction has started and only the Deputy and eviction crew will be

permitted on the property

DO NOT WAIT UNTIL THE EVICTION DATE TO REMOVE YOUR PERSONAL BELONGINGS FROM THE RESIDENCE!

The eviction crew will remove any remaining property in the residence and place it on the nearest public property. The eviction crew is only required to use reasonable care in the removal of your belongings. The eviction crew will not assist you in placing any property in any vehicle. After the property is removed, it will be your responsibility to safeguard your belongings.

If the eviction can not be executed on the posted date, it will be rescheduled for the next available date. You will receive no further notice.

REMINDER
EVICTION DATE: NOVEMBER 07, 2001.
NO FURTHER NOTIFICATION WILL BE GIVEN.

PLEASE READ!!!PLEASE READ!!!PLEASE READ!!! PLEASE READ!!!

NOTE: Eviction Notice was premature. WS

Rule 2-507. Dismissal for lack of jurisdiction. (a) Scope. This Rule applies to all action.

Rule 8-605. Reconsideration.

Rule 8-606. Mandate. (a) To evidence order of the Court.

Certified Mail 7001, 1140, 0003, 1866, 2893
WS

William Smith
11604 Kimberly Woods La
Fort Wash, MD 20744
PH #202-561-7578
Date: Oct 1, 01

Sheriff
Alonzo D. Black, II
Office of the Sheriff
P.O. Box 548
Upper Marlboro,
Maryland 20773

"DEFENDANT'S NOTICE TO EVICTION IN GREAT ERROR NOV. 7, 2001 OF INTENT"

The Defendant's affidavit under the authority of Rule 1-304 Personal Knowledge, Rule 2-507 Courts Lack of Jurisdiction, all Court #1 (ex parte). Hearings Sept. 20, 97 to-date. Rule 2-507 Court, Circuit Court lacks legal jurisdiction. #2 Case is in the Court of Appeals Apr. 24 to date. All errors premature to rules, laws, Constitution and the American people!

The Court is showing two (2) files. The Court of Appeals File #1 and the questionable file #2 (in the Circuit Court).

The legal purpose of this notice is to timely let all authorities be advised of the problems of errors with intent? By certified mail under affidavit so no one can/will state to the people under oath, they did not know! This case errors are about forgery. This Plaintiff's document is forgery ₹22-3841. (This is NOT the Defendant's signature in Box #5 & 6. The authority can confirm error to the forgery below. — WS

(Facsimile of alleged certified mail certificate P 969 340 332)
Receipt P 969 340 332, date of delivery 9/18/97

WILLIAM SMITH	*	IN THE
	*	COURT OF APPEALS
v.	*	OF MARYLAND
	*	Petition Docket No. 115
		September Term, 2001
ALVIN E. FRIEDMAN		
et al.	*	(No. 1832, Sept. Term,
Substitute Trustees		1888, Court of Special
		Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals, and the supplement filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition and supplement be, and they are hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell
Chief Judge

DATE: June 22, 2001

Appendix C

WILLIAM SMITH	*	IN THE
	*	COURT OF APPEALS
v.	*	OF MARYLAND
	*	Petition Docket No. 115
		September Term, 2001
ALVIN E. FRIEDMAN et al. Substitute Trustees	*	(No. 1332, Sept. Term, 1888, Court of Special Appeals)

ORDER

The Court having considered the motion for reconsideration, and the supplements filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the motion and supplement be, and they are hereby, denied.

/s/ Robert M. Bell
Chief Judge

DATE: September 14, 2001

Appendix D

13. If the indebtedness secured hereby be guaranteed or insured under Title 38, United States Code, such Title and Regulations issued thereunder and in effect on the date hereof shall govern the rights, duties and liabilities of the parties hereto, and any provisions of this or other instruments executed in connection with said indebtedness which are inconsistent with said Title or Regulations are hereby amended to conform thereto.

14. He specially warrants the property herein conveyed and that he will execute such further assurances thereof as may be required.

The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective heirs, executors, administrators, successors, and assigns of the parties hereto. Whenever used the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders and the term "holder of the said note" shall include any payee of the indebtedness hereby secured or any transferee thereof whether by operation of law or otherwise.

WITNESS the signature(s) and seal(s) of the party of the first part on the day and year first above written.

Witness: /s/ William Smith (Seal)
/s/ Stephen G. Norair

STATE OF MARYLAND, COUNTY OF PRINCE GEORGE'S to wit:

I hereby certify, that on this 17th day of March, 1986, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County of Prince George's, aforesaid, personally appeared William Smith and he acknowledged the foregoing deed to be his act.

In witness whereof, I have hereunto set my hand and affixed my official seal the day and year aforesaid.

/s/ Lillian C. Repeher, Notary Public

My commission expires 7/1/86
REMIT TO:
Guardian Mortgage and Investment Corporation
6575 Edsall Road
Springfield, MD 22151

I HEREBY CERTIFY that I am admitted to Practice before the Court of Appeals of the State of Maryland and this instrument was Prepared under my supervision.

/s/ Byron L. Huffman

Facsimile of State of Maryland Deed of Trust

Appendix E-7 (E-7)

EXH #2

Letterhead Bank America, Mortgage Holder

October 10, 1996

William Smith
11604 Kimberly Wood
Ft. Washington MD 20744

RE: Loan No. 0003853769
Check for $1200.00

We are returning your recent payment because it is not sufficient to bring your loan current. The delinquency constitutes a default under the terms of your mortgage and we must receive $2653.91 in order to reinstate your loan.

If you have any questions, please call one of our Customer Service Representatives.

Default Management

Toll-Free Number 1-800-552-7992
Richmond 804-762-5300

PP002 006 PGE

¢3-407 Alteration Ck. 3890

Prof. Prog. Cleaning Service
William Smith
11604 Kimberly Wood Lane
Ft. Washington MD 20744
Facsimile of Citizens Bank Check No. 3890, marked with "02/T' at top, with altered date of "Sept. 31, 96", and to Bank of America FSB $1200.00, indicating "(Sept. 96) #000385376-9" and signed by "William Smith."

Appendix F

Letterhead Bank America Mortgage CAE 97-16794 WS

William Smith
11604 Kimberly Wood
Ft Washington MD 20744

September 24, 1996

RE: Loan No. 0003853769

BANKAMERICA MORTGAGE, A DIVISION OF BANK OF AMERICA, FSB, IS ATTEMPTING TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Dear Mortgagor:

Your loan documents specify that your mortgage payment is due and payable on the first day of each month. Your payment for this month has not been received.
Remittance by return mail will be appreciated.

Sincerely,

Default Management
Toll-free 1-800-535-5170
Direct 1-800-762-5200

CL723 011 CPI

BankAmerica Mortgage, A Division of Bank of America, FSB
P.O. Box 26388, Richmond, Virginia 23260-6388

Letterhead Bank America Mortgage CAE 97-16794 WS

January 15, 1997

WILLIAM SMITH
11604 KIMBERLY WOOD
FORT WASHINGTON MD 20744

RE: Loan No. 0003853769

Dear Mr. Smith:

Enclosed are your two money orders totaling $1,200. We cannot accept one payment when three payments are due.

Also, compare your records to the payment history below.

Date Due	Date Received
January 1, 1996	January 25, 1996
February 1, 1996	March 4, 1996
March 1, 1996	April 4, 1996
April 1, 1996	May 2, 1996
May 1, 1996	June 3, 1996
June 1, 1996	July 3, 1996
July 1, 1996	August 2, 1996
August 1, 1996	September 3, 1996 ✓
September 1, 1996 ✓	December 11, 1996
October 1, 1996	December 11, 1996
November 1, 1996	
December 1, 1996	

We returned payments totaling $1,200 to you in October and November because your account was not current at that time.

The problem appears to have begun in February 1996 when there was no payment received.

If you have any further questions, please call me toll-free at 1-800-535-7160, ext. 5217.

Sincerely, /s/ Arthur R. Lewis
Collection Department

/AL/vm/Enclosures
A15-1.1

BankAmerica Mortgage, A Division of Bank of America, FSB
P.O. Box 26388, Richmond, Virginia 23260-6388

Letterhead Bank America Mortgage CAE 97-16794 WS
February 21, 1997

William Smith
11604 Kimberly Wood
Ft Washington MD 20744

RE: Loan No. 0003853769

Dear Mortgagor:

As of this date, your mortgage loan remains unpaid from the 11-01-96 payment and is seriously in default.

Unless steps are taken to bring your loan fully current, we may be forced to take legal action which may affect your interest in this property.

If you are unable to remit the full amount due to reinstate your loan, please contact me immediately to discuss the matter.

Sincerely,

/s/ Arthur R. Lewis
Collection Department
Direct: (804) 762-5217
Toll-free: 1-800-535-5170

BANKAMERICA MORTGAGE, A DIVISION OF BANK OF AMERICA, FSB, IS ATTEMTPING TO COLLECT A DEBT, AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

CL010 012 c20

BankAmerica Mortgage, A Division of Bank of America, FSB
P.O. Box 26388, Richmond, Virginia 23260-6388

CAE 97-16794 WS

Letterhead Bank America Mortgage

August 6, 1997

William Smith
11604 Kimberly Woods Lane
Ft Washington MD 20744

RE:. Loan No. 0003853769

Dear Mr. Smith:

We are returning your money orders totaling $1,200.00 because they are insufficient to bring your loan current. Your mortgage is currently due for the November 1, 1996 through August 1, 1997 payments; plus all accrued ancillary fees and attorney's fees and costs.

We have referred your account to our attorney to begin foreclosure action. All further communication must be directed to:

Friedman & MacFadyen, P.A.
Attention: Alvin E. Friedman
210 East Redwood
Baltimore, MD 21202
Phone: 410-685-1763

Sincerely,

/s/ Thomas D. Wright
Foreclosure Department
1-804-762-527517

Facsimile of U.S. Postal Money Order #6803169418 970715 207440 to Bank America, PO Box 26388, Richmond VA for $500.00 from William Smith, for Acct. 000385376-9 for 11604 Kimberly Woods Lane, Ft. Washington, MD 20744

Appendix J

August 23, '99
Payment Aug. 14, '97
MO (2) $1200
WS

Letterhead Law Offices, Friedman & MacFadyen, P.A.

July 11, 1997

Mr. William Smith
11604 Kimberly Wood Lane
Fort Washington, Maryland 20744

Re: 11604 Kimberly Wood Lane
Our File No. 507648

Dear Mr. Smith:

On March 17th, 1986, you borrowed money from Guardian Mortgage and Investment Corporation and executed a Mortgage/Deed of Trust and Note secured by the above referenced property. Since that time your loan has been transferred to Bank of America, FSB the current noteholder and/or servicer. The loan has been referred to this office for legal action based upon a default under the terms of your Mortgage/Deed of Trust and Note. This office has been retained to institute foreclosure proceedings under the loan agreement.

Pursuant to the Fair Debt Collection Practices Act, we are providing the following information. The principal balance as of the date of default is $84,333.68. In addition to the principal balance, also owed to satisfy the indebtedness are the following items: accrued interest, escrow advances (if any), and any other charges due pursuant to the terms of the Mortgage/Deed of Trust and Note. If within thirty (30) days from receipt of this letter you fail to dispute all or part of the debt, or any portion thereof, is disputed, this office will obtain verification of the debt and a copy of such verification will be mailed to you. Upon your written request within the thirty

(30) day period, this office will provide the name and address of the original noteholder, if different from the current noteholder.

This notice does not constitute an effort to collect a debt, the personal liability for which has been discharged in a chapter 7 proceeding.

Should you wish to reinstate or pay-off your loan, please contact our foreclosure department at the above telephone number between the hours of 9:00a.m. and 5:00 p.m. and ask for Lynn at extension 118 or Linda t extension 172.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

Very truly yours,
FRIEDMAN & MacFADYEN, P.A.

/s/ Kenneth J. MacFadyen

KJM:rcp
FIRST CLASS MAIL

1-9-97 # 1 and 2 Aug. 14, '97 WS

Aug. 5, '97

Mr. William Smith
11604 Kimberly Wood Lane
Fort Washington, Maryland 20744

Facsimile Letterhead Friedman
& MacFadyen, P.A.

Re: 11604 Kimberly Wood Lane
Our File No. 507648

Dear Sir:

No reply to same...Why? First and second request. WS

I, William Smith, of the above address (your file # Bank America's Loan #000385376-9) do hereby dispute Bank America's accounting of the foreclosure debt. Please give me the information I have requested from day one (see the many copies of Jan. 22, '97 letter from Bank America to Smith and return of same).

Please see (Apr. 15, '97 letter to Bank America from Smith with Apr. 97 payment) (A) in this letter.

Please see (July 26, '97 letter to Bank American from Smith) (B) in this letter.

Sincerely,

/s/ William Smith

Facsimile of U.S. Express Mail Receipt E 1185981675US
Post Office Stamp
Dated Aug 6, 1997

From: William Smith Phone: 201-561-7578
11604 Kimberly Woods Lane
Ft. Washington MD 20744

To: Friedman & MacFayden Phone: 410-727-1763
Totman Bldg., Suite 400
210 E. Redwood St.
Baltimore MD 21202-3399 507648

Appendix M (E-10B)

9/9/99, September 3, '99 WS

From William Smith, 11604 Kimberly Woods Lane, Fort Washington, MD 20744. September 3, 1999 and August 3, 1999.

Re: Loan #0003853769 Bank of America

Re: 11604 Kimberly Woods Lane.....our file number 507648 Law Office Friedman & MacFayden, P.A. (address) 410-685-1763
Fax 410-727-2759

Subj: Bank America's Foreclosure Proceedings False, Fraud, Fraudulent to impose Bank American's will on William Smith in a very deceitful manner, using everyone through credit.

I, William Smith, would like to dispute Bank America's foreclosure proceedings and file my petition/case Circuit Court, Prince George's County, Maryland (the house in Prince George's County, Maryland). A TRIAL BY JURY IS HEREBY DEMANDED.

Respectfully submitted,

William Smith

RULE 2-511, TRIAL BY JURY

(A) Rights preserved – the right of trial by jury is guaranteed by the Maryland Constitution and the Maryland Declaration of Rights or as provided by law shall be preserved to the party inviolate.

(B) Number of jurors – the jury shall consist of six persons. With approval of the Court, the party may agree to accept a verdict from fewer than six jurors if during the trial one or more of the six jurors become or are found to be unable or disqualifed to perform a juror's duties.

Enclosed: pages (1 and 2 BA) – August 5, 1997 letter PK 1. July 26, 1996 letter PK 2. April 15, 1997 letter PK 3. August 3, 1997 payments all PK 4.

Appendix N

Exh. #13 9/9/99 #5 Sept. 15, '97
WS

Facsimile Friedman & MacFadyen, P.A. letterhead, Re: Loan No. 0003853769 BankAmerica

Addressed to: William Smith, 11604 Kimberly Wood, Ft. Washington MD 20744

Sept. 15, 1997

Re: Loan No. 0003853769 BankAmerica

Subject: Second Request for Detailed Foreclosure Information and Documents

Dear Mr. MacFadyen:

As per your July 11, '97 letter to William Smith and my reply letter to dispute Aug. 5, '97 Bank America's accounting of the foreclosure debt to my home of almost 17 years. I, William Smith, here and NOW make my second request to you for the written evidence, stated for the record.

Enclosed is my payment for Sept. '97. Money order #67520500424 and Money order #67520500435 ($600.00 each).

Sincerely,

/s/ William Smith

Exh. #4 Sept. 01

Letterhead Law Offices Friedman & MacFadyen, P.A.

EXHIBIT A

September 17, 1997

Mr. William Smith
11604 Kimberly Wood Lane
Fort Washington, Maryland 20744

RE: 11604 Kimberly Wood Lane
Loan No. 0003853769
Our File No. 507648

Dear Mr. Smith:

Enclosed herewith please find your check no. 6752050024 in the amount of $600.00 and check no. 67520500435 in the amount of $600.00 remitted as payment to the above captioned account.

These funds are being returned as they are insufficient to reinstate your loan.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

(LAW OFFICE FRIEDMAN & MacFADYEN)
(EXHIBIT A)

Post Office Stamp Ft.Washington MD
Dated Sep 18, 1997

Facsimile of alleged U.S. Postal Service Certified Mail Receipt P 969 340 332, date of delivery 9/18/97

Box 3: Article addressed to:

Mr. William Smith
11604 Kimberly Wood Lane
Fort Washington, MD 20744
(Stamp Sept 18, 97 – USPS Fort Washington MD 20744

Bos 2 – Restricted Delivery (not marked)

Box 4b: Service type: X Certified

Box 5: Received by (print name):
William Smith (printed) (for)

Box 6: Signature: (Addressee or Agent) (for)
/s/ William Smith

Box 8: Addressee's Address (ONLY if requested and fee paid): Left blank

Appendix Q

Circuit Court for: Prince George's County CAE 97-16794

CIVIL-NON-DOMESTIC CASE INFORMATION SHEET

Directions: Stamp: Plaintiff's Original Copy

Plaintiff: This Information Sheet must be completed and attached to the complaint filed with the Clerk of Court. A copy must be included for each defendant to be served. NOTE: If this information sheet is not completed, no action on the case will commence and the complaint may be subject to dismissal.

Defendant: You must complete bottom portion on page 2 and file with your answer. This Information Sheet cannot be accepted as an answer or response. Failure to file this form will be deemed to be an agreement with the Plaintiff's information.

CASE NAME: **Alvin E. Friedman v Smith** ← §22-3841, Forgery. Case No. **CAE 97-16794**

Plaintiff Defendant

PLAINTIFF'S NAME: **Alvin E. Friedman** PHONE: **410-685-1763**

ADDRESS: **210 East Redwood Street, Baltimore, MD 21201**

PLAINTIFF'S ATTORNEY'S

NAME: **Alvin E. Friedman** PHONE: **410-685-1763**

ATTORNEY'S

ADDRESS: **210 East Redwood Street, Baltimore MD 21201**

___ I am not represented by an attorney

JURY DEMAND: ___ Yes **X No** Anticipated Length of Trial: **-0- days or –0- hours**

RELATED CASE PENDING? ___ Yes **X No**

Has any form of Alternate Dispute Resolution (ADR) been tried?

___ Yes **X No**

Is there any reason ADR is not advisable? **X Yes** ____ No

If so, state reason: **This is a mortgage foreclosure case. Presently there are no issues in dispute.**

NATURE OF ACTION

PERSONAL INJURY/with or without property damage	PROPERTY DAMAGE ONLY
None	None

REAL PROPERTY

X Mortgage Foreclosure

Appendix R . (E-)

Circuit Court for: Prince George's County CAE 97-16794

CIVIL-NON-DOMESTIC CASE INFORMATION SHEET

§22-3841, Forgery.

CASE NAME: **Alvin E. Friedman v Smith** Case No. **CAE 97-16794**

Plaintiff Defendant

Track Assignment Requested (See reverse side for criteria):

X Expedited (Trial Date – 90 days)

Do you plan to consolidate this case: ___ Yes **_X_ No**

Provide any vacation dates that may conflict in scheduling the settlement conference (30 days prior to trial) and trial date:

None anticipated

Briefly describe why this case should be assigned to a track other than the Standard Track: **It is a foreclosure case and does not require Extensive litigation.**

Relief South:

No items indicated

Witnesses:

Estimate the number of expert witnesses you anticipate for your side of the case: **Zero**

Will there be out-of-state witnesses or parties in this case?

___ Yes **_X_ No – no trial foreseen at this time**

Plaintiff's Certification:

_X_ I hereby certify that I have accurately provided the above information to the best of my ability.

/s/ indistinguishable **Alvin E. Friedman, Esquire**

Signature of Plaintiff's Counsell Party Print Name

Defendant's Certification:

If I am the Defendant or the Defendant's Counsel, I concur with Plaintiff's Information Sheett: ___ Yes ___ No

If "No", you must file a separate information sheet or state basis of disagreement.

I concur except as follows: _____

I plan to file: ___ Counter Complaint ___ Cross Complaint

___ Third Party Complaint

____ I am not represented by Counsel.

Appendix R-1

____ I hereby certify that I have accurately provided the above information to the best of my ability. I also certify that if I am the Defendant or the Defendant's Counsel in the case, and I have requested a track for this case other than the track requested by the Plaintiff, that a copy of this document has been forwarded to the Court (Case Track Coordinator0 and the opposing counsel (or party).

_____	_____
Signature of Defendant's Counsel Party	Date
	Print Name
Address: _____	Phone: _____

Appendix R-1 (E-)